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Part I

(Part II begins on page 12515)

Agencies in this issue—

Detailed list of Contents appears inside.

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Contents

(Continued on next page)

List of CFR Parts Affected

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

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1970, and specifies how they are affected.

7 CFR

947 12455
1443 12455
PROPOSED RULES:
362 12478
919 12478
925 12478

9 CFR

76 12460

12 CFR

329 12460
605 12461

14 CFR

PROPOSED RULES:
121 12479

16 CFR

501 12461

21 CFR

19 12461
320 12461
PROPOSED RULES:
3 12479
135 12479
144 12479

26 CFR

Ch. II 12462
PROPOSED RULES:
1 (2 documents) 12467–12477

39 CFR

113 12462

45 CFR

901 12516
903 12517
904 12521
905 12522
907 12523
908 12524

47 CFR

21 12462
PROPOSED RULES:
73 (2 documents) 12481–12483

49 CFR

235 12463
236 12465
PROPOSED RULES:
1048 (2 documents) 12483

50 CFR

32 (2 documents) 12465, 12466

Rules and Regulations

Title 7—AGRICULTURE

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

[947.223]

PART 947—IRISH POTATOES GROWN IN MODOC AND SISKIYOU COUNTIES IN CALIFORNIA AND IN ALL COUNTIES IN OREGON EXCEPT MALHEUR COUNTY

Approval of Expenses

Notice of rule making regarding proposed expenses and rate of assessment to be effective under Marketing Agreement No. 114 and Order No. 947 (7 CFR Part 947), both as amended, regulating the handling of Irish potatoes grown in Modoc and Siskiyou Counties in California and in all counties in Oregon except Malheur County, was published in the July 14, 1970, issue of the FEDERAL REGISTER (35 F.R. 11245).

The notice afforded interested persons an opportunity to submit written data, views, or arguments, pertaining thereto not later than 15 days following publication in the FEDERAL REGISTER. None was filed.

After consideration of all relevant matters, including the proposals set forth in the aforesaid notice which were recommended by the Oregon-California Potato Committee, established pursuant to the said marketing agreement and order, it is hereby found and determined that:

§ 947.223 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period beginning July 1, 1970, and ending June 30, 1971, by the Oregon-California Potato Committee for its maintenance and functioning, and for such purposes as the Secretary determines to be appropriate, will amount to $32,760.

(b) The rate of assessment to be paid by each handler in accordance with the Marketing Agreement and this part shall be four-tenths of one cent ($0.004) per hundredweight of potatoes handled by him as the first handler thereof during said fiscal period.

(c) Unexpended income in excess of expenses for the fiscal period ending June 30, 1971, may be carried over as a reserve.

(d) Terms used in this section have the same meaning as when used in the said marketing agreement and this part.

It is hereby found that good cause exists for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), in that: (1) The relevant provisions of said marketing agreement and this part require that rates of assessment fixed for a particular fiscal period shall be applicable to all assessable potatoes from the beginning of such period, and (2) the current fiscal period began July 1, 1970, and the rate of assessment herein fixed will automatically apply to all assessable potatoes beginning with such date.

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

Dated: July 31, 1970.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 70–10164; Filed, Aug. 4, 1970; 8:49 a.m.]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

PART 1443—OILSEEDS

Subpart—Cottonseed Oil and Meal Purchase Program Regulations (1970)

Part 1443 is supplemented by revising §§ 1443.58–1443.71 to read as follows, effective as to the 1970 Cottonseed Oil and Meal Purchase Program. The material previously appearing in these sections remains in full force and effect as to the 1969 Cottonseed Oil and Meal Purchase Program to which it was applicable.

Sec.

AUTHORITY: The provisions of this subpart issued under secs. 4 and 5, 62 Stat. 1070, as amended, secs. 301, 401, 63 Stat. 1051, as amended, sec. 601, 70 Stat. 212, 15 U.S.C. 714b and 714c, and 7 U.S.C. 1447, 1447, 1421, 1446d.

§ 1443.58 General statement.

As a part of the 1970 Cottonseed Price Support Program formulated by Commodity Credit Corporation (referred to in this subpart as "CCC") and the Agricultural Stabilization and Conservation Service (referred to in this subpart as "ASCS"), CCC will purchase cottonseed oil and, at its option and on a limited basis only, cottonseed meal from cottonseed crushers participating in the program upon the terms and conditions stated in this subpart. No purchases of cottonseed meal will be made unless CCC subsequently announces that it will consider tenders of meal under circumstances specified in § 1443.63(c). No purchases will be made by CCC from crushers who do not participate in the program.

§ 1443.59 Administration.

The program will be carried out by ASCS under the general supervision and direction of the Executive Vice President, CCC. Except as specifically provided otherwise, operations under this subpart will be administered by the New Orleans ASCS Commodity Office located at Wirth Building, 120 Marais Street, New Orleans, La. 70112 (referred to in this subpart as "the New Orleans Office"). CCC contracting officers in the New Orleans office will execute contract documents on behalf of CCC. Officials in the New Orleans office do not have authority to waive or modify any provisions of this subpart. The forms referred to in this subpart may be obtained from the New Orleans Office.

§ 1443.60 Crusher's participation in program.

(a) *Eligible crusher.* Any crusher who completes and forwards to the New Orleans office a signed original and copy of the 1970 Cottonseed Price Support Program Crusher Acceptance (Form CCC 912) not later than September 1, 1970, and complies with the other provisions of this subpart (such crusher is hereinafter referred to as a "participating crusher") will be eligible to make tenders hereunder to CCC, except that (1) no purchases will be made by CCC from any crusher debarred or suspended from contracting with CCC or from participating in programs financed by CCC, and (2) subject to approval of CCC, a crusher may file such acceptance form subsequent to September 1, 1970, but in such event he may tender only the cottonseed oil or meal equivalent of seed purchased subsequent to the date of filing the acceptance form. If a crusher operates more than one cottonseed crushing mill, he must file an acceptance form for each mill which he desires to have participate in the program, and each such mill shall be treated as a separate unit for the purpose of determining the rights and obligations of the crusher with respect to cottonseed purchased by and cottonseed oil and meal delivered from each such mill. A participating crusher may withdraw from the program at any time upon written notice to the New Orleans office

and will not be obligated to pay the applicable minimum prices determined in accordance with § 1443.61(a) for cottonseed purchased after withdrawal. CCC will not accept any tender submitted by a crusher after his withdrawal, and cottonseed purchased after his withdrawal will not be eligible cottonseed as defined in § 1443.63(f).

(b) *Assurance.* The acceptance form will contain an assurance by the crusher that his participation in the program will be conducted, and his facilities operated, in compliance with all of the requirements imposed by, or pursuant to, the regulations governing nondiscrimination in federally assisted programs of the Department of Agriculture, Part 15 of this title, which effectuate title VI of the Civil Rights Act of 1964.

§ 1443.61 Purchases of cottonseed by crusher.

(a) *Price.* Except as otherwise provided in this paragraph, a participating crusher must pay for all 1970 crop cottonseed purchased from ginners not less than $41 per ton, net weight, basis grade (100), f.o.b. conveyance or carrier at the gin, and from producers not less than a season's weighted average price of $37 per ton, gross weight, basis grade (100), and, in the case of purchases from both gins and producers, with premiums and discounts for other grades equal to the same percentage of such price as the percentage by which the grade of cottonseed purchased exceeds or is less than the basis grade (100). For the purposes of this subpart, the term "season's weighted average price" means the weighted average of the prices paid for cottonseed by the crusher between the date on which he executes the 1970 Cottonseed Price Support Crusher Acceptance submitted to CCC under § 1443.60 (a) and the earlier of (1) the date he executes a notice of withdrawal from the program which is submitted to CCC under § 1443.60(a), or (2) the date of his final purchase of 1970 crop cottonseed. Cottonseed which is "below grade" or "off quality," as defined in C&MS Service and Regulatory Announcement No. 179, as amended, "Standards for Grades of Cottonseed Sold or Offered for Sale for Crushing Purposes Within the United States" (hereinafter referred to as "the Cottonseed Standards"), §§ 61.101–61.104 of this title, may be purchased at a price mutually agreeable to the crusher and the seller.

(b) *Grades.* Except as provided in subparagraphs (1), (2), and (3) of this paragraph, all 1970 crop cottonseed purchased by the crusher shall be graded by federally licensed cottonseed chemists in accordance with the Cottonseed Standards on the basis of samples drawn from the cottonseed by federally licensed cottonseed samplers or such other persons as are approved by CCC. The cost of sampling and grading cottonseed shall be borne by the crusher.

(1) Any crusher located in North Carolina, South Carolina, Georgia, the south Alabama counties of Montgomery, Dallas, Houston, and Barbour, or the San Joaquin Valley of California, may exclude the linters factor in determining the grade if such crusher did not have cottonseed from the 1969 crop graded in accordance with the Cottonseed Standards because of the linters factor.

(2) The grade of cottonseed acquired by the crusher in the San Joaquin Valley of California may be determined on the basis of composite samples of such cottonseed. Individual samples drawn from at least the first three shipments of cottonseed received by the crusher each day shall be mixed together to form a composite sample, except that if a crusher receives less than 35 tons of cottonseed on any day, individual samples may be retained and mixed to form a composite sample when the individual samples represent an accumulation of approximately 35 tons of cottonseed: *Provided*, That no composite sample shall be made from individual samples which have been retained for more than 3 days.

(3) The crusher shall not be obligated to grade 1970 crop cottonseed in accordance with the Cottonseed Standards until the 20th business day following the date of publication of this subpart in the FEDERAL REGISTER.

(c) *Weight.* Purchases of cottonseed from ginners by crushers under this subpart shall be based upon weight at the crusher's mill after deduction of the weight of all foreign material in excess of 1 percent. Purchases of cottonseed from producers by crushers under this subpart shall be based upon the gross weight of the cottonseed as customarily determined by the crusher when making purchases of cottonseed from producers. The cost of weighing shall be borne by the crusher.

(d) *Receipts from certain gins.* Where a gin and crusher are under common control, direction, or management, cottonseed received by the crusher from such gin shall not have been purchased from producers at less than a season's weighted average price of $37 per ton, gross weight, basis grade (100), with premiums and discounts for other grades equal to the same percentage of such price as the percentage by which the grade of cottonseed purchased exceeds or is less than the basis grade (100).

§ 1443.62 Cooperative mills.

If the crusher is a cooperative oil mill, and if the marketing agreements between the crusher and its members provide for advances, the crusher may advance a part of the applicable minimum purchase price determined in accordance with the provisions of § 1443.61 at the time each lot of cottonseed is purchased and pay the balance of the minimum price after completion of crushing of the 1970 crop cottonseed, but not later than December 31, 1971. Such balance shall be paid in cash unless the Executive Vice President, CCC, has approved deferred payment thereof by issuance of revolving fund certificates or by other methods of retention of funds for capital purposes. The Executive Vice President will approve deferred payment only by crushers (a) which are organized under applicable State or Federal laws as an association of persons who are engaged in the production of agricultural commodities, or as an association of other associations of such persons, and (b) which he determines are operating on a financially sound basis. Any such crusher desiring approval to make deferred payment shall submit its application for approval to the Director, Oilseeds and Special Crops Division, ASCS, Washington, D.C. 20250, not later than the date of submission of its acceptance form, or such later date as CCC may for good cause approve. The application shall include a certified statement that the crusher meets the requirements of paragraph (a) of this section, and a complete and accurate statement of its current financial condition. The crusher shall also submit to CCC such other information regarding its financial condition as CCC may request.

§ 1443.63 Tenders.

(a) *Tenders of oil by crusher.* A participating crusher may tender to CCC only cottonseed oil produced at his mill. A participating crusher who produces only crude oil or only once-refined oil may tender only crude oil or once-refined oil, respectively. A participating crusher who produces both crude and once-refined oil may tender only once-refined oil, except that (1) the crusher may, at his request and with the prior approval of CCC, tender crude oil, and (2) the crusher may tender only crude oil if CCC notifies him that it will, with respect to specific tender periods, receive tenders of crude oil only. The price in any tender shall be the price as proposed by the crusher, except that, if a maximum price for the crusher's area is announced by CCC under paragraph (b) of this section, the price for oil as proposed by the crusher in any tender shall not exceed the price so announced.

(b) *Announcement of purchase price of oil by CCC.* CCC may, at its option, at any time prior to 2 p.m., local time at the New Orleans Office, on any Monday of any given week, announce that it will purchase cottonseed oil at not more than specified prices within areas designated by CCC. Such prices will be determined by CCC after giving consideration to the criteria specified in § 1443.64(b).

(c) *Tenders of meal.* CCC will not consider tenders of any cottonseed meal unless it exercises an option to do so by announcing that it will consider such tenders from crushers located within localities designated by CCC in order to continue, insofar as practicable, the normal movement of both oil and meal into commercial channels, except that CCC will, without exercising such option, consider tenders of specific lots of cottonseed meal which a participating crusher has reason to believe are unsuitable for feed use because of contamination by aflatoxin. A participating crusher may tender to CCC only meal produced at his mill. The price stated in all tenders of meal shall be the price as proposed by the crusher and shall be on the basis of bulk 41 percent protein meal.

(d) *Submission of tenders.* Each tender shall be submitted to the New Orleans office. The tender may be made by letter transmitting a completed 1970 Cottonseed Price Support Program Crusher Tender Form (CCC Form 913) or by wire. If a tender is made by wire, a completed Crusher Tender Form shall promptly be mailed to the New Orleans office in confirmation. Each tender must be signed by the crusher, by an employee of the crusher having authority to sign tenders for the crusher, or by a broker designated in writing to the New Orleans office by the crusher. The designation of a broker shall authorize the broker, as an agent of the crusher, to submit such tenders on behalf of the crusher (see § 1443.70(c)). Each tender shall state the tender date on which it is to be considered; the prices at which the crusher tenders oil or meal to CCC; the quantity of oil or meal tendered; whether the crusher is tendering basis prime crude or prime bleachable summer yellow cottonseed oil; and the proposed delivery schedule meeting the requirements of § 1443.64, except that a tender of cottonseed meal may, unless and until CCC notifies participating crushers to the contrary, be submitted without a proposed delivery schedule; if a contract results from a tender submitted without a proposed delivery schedule, CCC may request the crusher to submit such a schedule for the purposes of § 1443.64(e)(3). A supplementary explanation and justification must accompany any tender contemplating delivery after August 31, 1971.

(e) *Time of tenders.* All tenders, including tenders made pursuant to an announcement by CCC under paragraph (b) of this section, shall be received at the New Orleans Office not later than 3 p.m. (local time at the New Orleans Office), on each Wednesday (or on the next working day if Wednesday is a holiday). No tender, or modification or withdrawal thereof will be considered if received after the specified time on a particular tender date, unless received before acceptance is made of tenders received before such time and CCC determines that (1) such tender, modification, or withdrawal was delayed in transmission by mail through no fault of the crusher, or (2) the modification is made for the purpose of correcting an error apparent on the face of the original tender or for the purpose of clarifying an ambiguity or supplying an omission therein, or (3) the modification is beneficial to CCC and not prejudicial to any other crusher. No tenders shall be made later than July 31, 1971.

(f) *Limitation on tenders.* Tenders of oil by any crusher shall be made only against eligible cottonseed, which for the purposes of this subpart, is 1970 crop cottonseed produced in the United States and purchased by the crusher under the provisions of this subpart, other than below grade or off quality cottonseed and cottonseed purchased by the crusher prior to the date of receipt of his acceptance form by CCC if such date is after September 1, 1970. The quantity of oil or meal which the crusher tenders and CCC accepts shall not exceed the quantity thereof which could be produced from eligible cottonseed, based upon the 1969 crop outturn per ton of cottonseed in the crusher's area, as determined by CCC. Whenever CCC accepts a tender of either oil or meal, the cottonseed equivalent of either the oil or the meal covered by the tender (determined on the basis of the outturn, as provided above) shall be deducted from the quantity of eligible cottonseed against which the crusher may make future tenders. Whenever CCC accepts tenders of both oil and meal made on the same tender date, the cottonseed equivalent of the product which represents the greater quantity of cottonseed (determined on the basis of the outturn, as provided above) shall be deducted from the quantity of eligible cottonseed against which the crusher may make future tenders. Notwithstanding any other provisions of this paragraph, the crusher shall not tender any cottonseed oil or meal which, if accepted by CCC, would cause the total quantity of oil or meal tendered to and accepted by CCC and not yet delivered to CCC to exceed the smallest of (1) the quantities of oil or meal which have been or can be produced from eligible cottonseed acquired by the crusher up to the time of the tender, or (2) the capacity of the mill to produce during a 60-day period of normal operation if such tender is made prior to December 31, 1970, or during a 45-day period of normal operation if such tender is made thereafter, or (3) the quantity of oil or meal which can be produced from the uncrushed eligible cottonseed which he has on hand as of the date of tender: *Provided,* That the crusher may make one or more tenders of oil or meal in excess of the quantity limits stipulated in subparagraph (2) or (3) of this paragraph, but in such event CCC will not accept a total quantity of oil or meal covered by such tender(s) which is in excess of the capacity of the mill to produce during a 15-day period of normal operation.

§ 1443.64 Purchases by CCC.

(a) *Consideration of tenders.* As soon as possible after the final time for submission of tenders on each tender date, CCC will consider all tenders which are submitted by participating crushers and are in accordance with the provisions of this subpart. If CCC determines (1) that the prices stated in a tender are acceptable, and (2) that the tender is otherwise acceptable under this subpart, CCC will accept the tender. If any tender is not acceptable, CCC may, at its option, make a counteroffer. CCC will notify the crusher of acceptance or rejection of any tender, or make any counteroffer, by a wire filed not later than 4 p.m. (local time at the New Orleans office), on the next working day following the tender date. The crusher's acceptance of the counteroffer by CCC must be received by the New Orleans office within 1 business day after the date of filing of the wire containing CCC's counteroffer.

(b) *Price consideration.* The price stated in a tender, other than a tender in response to an announcement by CCC under § 1443.63(b), will be acceptable to CCC if CCC determines that such price is not in excess of that price necessary to enable crushers within the crusher's generally competitive area to recover, as a group average; the minimum price which participating crushers are required to pay to ginners for cottonseed under this subpart plus such margin above such minimum price as CCC deems to be reasonable. In making such determination, and in determining the price at which CCC counteroffers, due consideration will be given to current market prices for cottonseed products (oil, meal, linters, and hulls), and the average product outturns within said area. The crusher shall cooperate with the Consumer and Marketing Service, USDA, in furnishing prices at which he sells cottonseed products in bulk on the wholesale market, and the prices so furnished shall, in accordance with § 900.513(d) of the C&MS Regulations governing public information, Part 900 of this title, be exempt from public disclosure.

(c) *Contract of sale.* (1) Each (i) tender by the crusher and acceptance by CCC, or (ii) counteroffer by CCC and acceptance by the crusher, as the case may be, shall result in a separate contract for the sale of cottonseed oil or meal. Each contract of sale shall consist of, in addition to the documents specified in subdivision (i) or (ii) of this subparagraph, the terms and conditions of this subpart, and the Rules of the National Cottonseed Products Association, Inc. (hereinafter referred to as "NCPA"), in effect on the date as of which the tender is made, except to the extent such rules are inconsistent with the other provisions of this subpart, and except such of those rules which pertain to arbitration and the time for presentation of claims.

(2) The crusher may request, by writing to the New Orleans office, that the quantity of cottonseed meal covered by any executory contract(s) of sale be reduced. The crusher's request will be approved by CCC except to the extent that meal covered by the request (i) has been contracted for sale by CCC, (ii) has been offered for sale by CCC, or (iii) has been ordered delivered by CCC; however, such request may be approved by CCC even to the extent that the meal covered thereby falls within the provisions of subdivisions (ii) and (iii) of this subparagraph if CCC determines that such approval will not adversely affect the orderly handling or disposition of cottonseed meal. CCC will apply the quantity of meal for which its approval is granted against the quantity of meal covered by executory contracts of sale with the crusher which are subject to this subparagraph in the same chronological order in which such contracts were entered into.

(d) *Rules of NCPA—incorporation by reference.* The rules of NCPA referred to in paragraph (c) of this section, except to the extent such rules are inconsistent with the other provisions of this subpart, and except such of those rules which pertain to arbitration and the time for presentation of claims, are hereby adopted and incorporated by reference

into this subpart. Copies of the rules of NCPA may be obtained from NCPA, 2400 Poplar Avenue, Memphis, Tenn. 38112. An official historic file of the rules of NCPA which are incorporated by reference into this subpart will be maintained by the Oilseeds and Special Crops Division, ASCS, U.S. Department of Agriculture, Washington, D.C. 20250. Such rules will be available for examination in the offices of that Division.

(e) *Delivery.* (1) Each lot of cottonseed oil or meal purchased by CCC shall be delivered by the crusher f.o.b. cars or trucks (CCC's option) made available without cost to the crusher at crusher's mill. Crusher shall deliver cottonseed oil or meal, as the case may be, crushed from 1970 crop cottonseed produced in the United States. Delivery shall be in car or truck lots in accordance with shipping instructions issued by the New Orleans office. No delivery of oil or meal shall be made after August 31, 1971, unless the New Orleans office and the crusher mutually agree upon a later date for delivery. Title to the cottonseed oil or meal shall pass to CCC upon delivery.

(2) CCC shall not be obligated to accept the initial delivery of oil under any contract of sale prior to 15 business days after the date of CCC's acceptance of the tender or the crusher's acceptance of the counteroffer (the date of whichever of such acceptances results in a contract is called in this subpart "the date of sale"). At least 10 percent of the contract quantity of oil shall be delivered within 30 days after the date of sale, at least 30 percent within 60 days after the date of sale, at least 60 percent within 90 days after the date of sale, and in any event the total contract quantity of oil shall be delivered not later than 180 days after the date of sale. In delivering oil under any contract of sale, a variation of one-half of 1 percent above or below the contract quantity will be accepted as a good delivery as to weight.

(3) CCC shall not be obligated to accept the initial delivery of meal under any contract of sale prior to 30 days after the date of sale. Meal shall be delivered in bulk, or if requested by CCC, in new or used bags at such adjustment in the sale price to reflect the increased cost of delivery in bags as may be mutually agreed upon by the crusher and the New Orleans office. Upon CCC's request and agreement of the crusher, the crusher shall deliver under his contract(s) with CCC cottonseed meal meeting the requirements of paragraph (g) of this section but with a designated fat content, or, in lieu of cottonseed meal, cottonseed cake, flakes, or pellets. The cottonseed cake, flakes, or pellets delivered pursuant to such agreement (i) shall have 41 percent protein content and, in the case of cake, shall be prime quality as defined in the rules of NCPA, or in the case of flakes or pellets, shall meet the rules, unless CCC and the crusher mutually agree to the delivery of cake, flakes or pellets which do not meet such requirements, and (ii) shall, for purposes of this subpart other than quality requirements set forth in this sentence, be considered to be cottonseed meal. In delivering meal under any contract of sale, a variation of 5 percent above or below the contract quantity will be accepted as good delivery as to weight but the variation shall not exceed 2½ tons. If a tender of meal resulting in a contract of sale is made without a delivery schedule in accordance with § 1443.63(d), either the crusher or CCC may request of the other in writing that delivery be made; delivery of the meal shall then be made in accordance with the delivery schedule mutually agreed to by the parties. CCC will apply the quantity of meal delivered to it under contract(s) of sale with the crusher resulting from tenders made without a delivery schedule against such contract(s) in the same chronological order in which they are entered into.

(f) *Grade of oil.* The cottonseed oil delivered by the crusher shall be basis prime crude cottonseed oil or prime bleachable summer yellow cottonseed oil (whichever is specified in the contract) as defined in the rules of the NCPA: *Provided,* That if, on the basis of sampling and chemical analysis of cottonseed being crushed by the mill at the time for delivery, or because of other conditions inherent in the cottonseed which are not reflected in sampling and chemical analysis, it is shown to the satisfaction of the New Orleans office that basis prime crude cottonseed oil or prime bleachable summer yellow cottonseed oil cannot be produced, the crusher may deliver crude cottonseed oil of less than prime grade at the agreed sales price, or may deliver once-refined cottonseed oil of prime summer yellow or summer yellow grade at a price mutually agreed upon by the crusher and CCC. The agreed sale price of crude oil shall be adjusted in accordance with the crude oil settlement provisions of the rules of the NCPA.

(g) *Grade of meal and protein content.* The cottonseed meal delivered by the crusher shall be 41 percent protein cottonseed meal, prime quality, as defined in the rules of NCPA, except that (1) less than prime quality meal may be delivered at the agreed sales price less discounts determined in accordance with the rules of the NCPA if, on the basis of sampling and chemical analysis of cottonseed being crushed at the mill at the time for delivery, or because of other conditions inherent in the cottonseed which are not reflected in sampling and chemical analysis, it is shown to the satisfaction of the New Orleans office that prime quality meal cannot be produced, and (2) meal having less than 41 percent protein content may be delivered at market discounts agreed upon by the crusher and CCC, as applied against the sales price for 41 percent protein meal. Meal having in excess of 41 percent protein content may be delivered to CCC at no premium. Notwithstanding any other provision of this subpart, CCC may reject to the crusher any meal which is condemned or disqualified for use as animal feed by the Food and Drug Administration, U.S. Department of Health, Education, and Welfare, or subject to such condemnation or disqualification, except that CCC will not reject to the crusher meal which is tendered to CCC under the exception specified in § 1443.63(c) because of contamination by aflatoxin: *Provided,* That such contamination did not result from the crusher's failure to exercise due care with respect to either cottonseed acquired by him or meal produced therefrom.

(h) *Provisional payment.* When oil or meal is delivered to CCC, the crusher may present to CCC for provisional payment, an invoice, with shipping documents acceptable to CCC attached, for the value of the oil or meal based on origin weights and the agreed sales price.

(i) *Final settlement.* Final settlement for oil or meal delivered to CCC will be made upon the basis of the official analysis and the certified destination weight of the oil or meal determined in accordance with the NCPA rules. The analysis and weighing of oil or meal delivered will be arranged for by CCC at its expense.

§ 1443.65 Information release.

CCC will issue press releases announcing the names, quantities, locations, and prices and such other information as it deems advisable with respect to all contracts entered into under this subpart and transactions developing therefrom.

§ 1443.66 Movement of cottonseed oil or meal.

CCC shall not be responsible for any loss or injury caused the crusher by failure of CCC to move cottonseed oil or meal promptly, and the crusher shall not be responsible for any failure to deliver or delay in delivery, where such failure or delay on the part of CCC or the crusher is due to any cause without such party's fault or negligence including, but not restricted to, acts of God or the public enemy, storms, floods, conflagrations, strikes, blockades, riots, embargoes, or priority, allocation, service, or other orders or directives issued by the Government, or difficulty in obtaining cars or trucks. Notwithstanding the foregoing provisions, if CCC fails for any reason to issue shipping instructions in accordance with the delivery schedule specified in the tender (or any modification mutually agreed to by the New Orleans office and the crusher), the crusher may have an official analysis or quality determination made of the quantity of oil or meal involved and shall not, after giving timely written notice to CCC accompanied by a copy of such official analysis or quality determination, be responsible for any loss or deterioration in quality subsequent to the date of such official analysis or quality determination, except for any loss, deterioration, or damage due to the fault or negligence of the crusher.

§ 1443.67 Books and records.

Each crusher filing an acceptance form under this subpart shall keep accurate books, records, and accounts with respect to all purchases of cottonseed (including the name of seller, date of receipt, weight, and grade of each lot of cottonseed purchased) and all other transactions under this subpart for a

period of at least 3 years from the last date any cottonseed oil or meal is delivered by the crusher under this subpart, and shall furnish CCC such information and reports relating thereto as CCC may from time to time request, subject to the approval of the Bureau of the Budget pursuant to the Federal Reports Act of 1942. The crusher shall permit authorized employees of the U.S. Department of Agriculture, and the General Accounting Office, at any time during customary business hours, to inspect, examine, audit, and make copies of such books, records, and accounts.

§ 1443.68 Certification of independent price determination.

(a) *Certification of crusher.* By submission of a tender under this subpart, the crusher certifies that:

(1) The prices in his tender have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other crusher or with any competitor;

(2) Unless otherwise required by law, the prices which have been quoted in his tender have not been knowingly disclosed by the crusher and will not knowingly be disclosed by the crusher prior to acceptance, in the case of a tender, directly or indirectly, to any other crusher or to any competitor; and

(3) No attempt has been made or will be made by the crusher to induce any other crusher to submit or not to submit a tender for the purpose of restricting competition.

(b) *Certification of person signing.* Each person signing the tender certifies that:

(1) He is the person in the crusher's organization responsible within that organization for the decision as to the prices being offered and that he has not participated, and will not participate, in any action contrary to paragraph (a) (1) through (3) of this section; or

(2) (i) He is not the person in the crusher's organization responsible within that organization for the decision as to the prices being offered but that he has been authorized in writing to act as agent for the persons responsible to such decision in certifying that such persons have not participated, and will not participate, in any action contrary to paragraph (a) (1) through (3) of this section, and as their agent does hereby so certify; and (ii) he has not participated, and will not participate, in any action contrary to paragraph (a) (1) through (3) if this section.

(c) *Deleting or modification.* A tender will not be considered where paragraph (a) (1), (3), or (b) of this section has been deleted or modified. Where paragraph (a)(2) of this section has been deleted or modified, the tender will not be considered unless the crusher furnishes with the tender a signed statement which sets forth in detail the circumstances of the disclosure and CCC determines that such disclosure was not made for the purpose of restricting competition.

§ 1443.69 Parent company.

Each crusher submitting a tender under this subpart shall state whether the crusher is owned or controlled by a parent company, and if so, shall state the name and principal office address of the parent company in the spaces provided on the tender form. The crusher shall also insert in the space provided the Employer's Identification Number (E.I. number) (Federal Social Security number used on Employee's Quarterly Federal Tax Return, U.S. Treasury Department Form 941) of the crusher and the parent company (if any). for the purposes of this subpart, a parent company is defined as one which either owns or controls the activities and basic business policies of the participating crusher. To own another company means the parent company must own at least a majority (more than 50 percent) of the voting rights in that company. To control another company, such ownership is not required; if another company is able to formulate, determine, or veto basic business policy decisions of the participating crusher, such other company is considered the parent company of the crusher. This control may be exercised through the use of dominant minority voting rights, use of proxy voting, contractual arrangements, or otherwise.

§ 1443.70 Benefits and contingent fees.

(a) *Officials not to benefit.* No member of or Delegate to the Congress of the United States, or Resident Commissioner, shall be admitted to any share or part of any contract resulting from tenders of cottonseed oil or meal under this subpart or to any benefit that may arise therefrom, but this provision shall not be construed to extend to such a contract if made with a corporation for its general benefit, and shall not extend to any benefits that may accrue from such contract to a Member of or Delegate to the Congress or a Resident Commissioner in his capacity as a producer of cottonseed.

(b) *Contingent fees.* By submitting a tender under this subpart, the crusher warrants that no person or selling agency has been employed or retained to solicit or secure the contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by the crusher for the purpose of securing business. For breach or violation of this warranty, CCC shall have the right to annul the contract without liability, or in its discretion to deduct from the contract price of the cottonseed oil or meal, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

(c) *Price information.* By submitting a tender under this subpart, the crusher further warrants that he has not employed or utilized any person, firm, or organization which (1) furnished any information or service which might tend to prevent, limit, or restrict competition in the submission of tenders under this subpart, or (2) furnished any assistance to the crusher in the calculation of prices if such person, firm, or organization has assisted or is assisting other persons submitting tenders under this subpart in the calculation of prices (other than prices specified in tenders made pursuant to CCC's offer to purchase oil under § 1443.63(b)).

§ 1443.71 Nondiscrimination in employment.

(a) *Applicability.* The provisions of this section are applicable to any contract of sale which is entered into under this subpart and which is subject to the Equal Opportunity clause of Executive Order 11246 of September 24, 1965, as amended (hereinafter referred to in this section as the "Executive order").

(b) *Equal opportunity clause.* During the performance of any contract of sale entered into under this subpart, the crusher agrees as follows:

(1) The crusher will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The crusher will take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The crusher agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this Equal Opportunity clause.

(2) The crusher will, in all solicitations or advertisements for employees placed by or on behalf of the crusher, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(3) The crusher will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Contracting Officer, advising the labor union or workers' representative of the crusher's commitments under this Equal Opportunity clause, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The crusher will comply with all provisions of the Executive order, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The crusher will furnish all information and reports required by the Executive order, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by CCC and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the crusher's noncompliance with the Equal Opportunity

clause of this contract, or with any of such rules, regulations, or orders, the contract may be canceled, terminated, or suspended in whole or in part and the crusher may be declared ineligible for further Government contracts in accordance with procedures authorized in the Executive order, and such other sanctions may be imposed and remedies invoked as provided in the Executive order, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The crusher will include the provisions of subparagraphs (1) through (7) of this paragraph in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of the Executive order, so that such provisions will be binding upon each subcontractor or vendor. The crusher will take such action with respect to any subcontract or purchase order as CCC may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however,* That in the event the crusher becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by CCC, the crusher may request the United States to enter into such litigation to protect the interests of the United States.

(c) *Certification of nonsegregated facilities.* (Applicable to contracts and subcontracts exceeding $10,000 which are not exempt from the provisions of the Equal Opportunity clause.) By the submission of a tender under this subpart, the crusher certifies that he does not maintain or provide for his employees any segregated facilities at any of his establishments, and that he does not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. He certifies further that he will not maintain or provide for his employees any segregated facilities at any of his establishments, and that he will not permit his employees to perform their services at any location under his control, where segregated facilities are maintained. The crusher agrees that a breach of this certification is a violation of the Equal Opportunity clause in the contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit, local custom, or otherwise. He further agrees that (except where he has obtained identical certifications from proposed subcontractors for specific time periods) he will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding $10,000 which are not exempt from the provisions of the Equal Opportunity clause; that he will retain such certifications in his files; and that he will forward the following notice to such proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods).

NOTICE TO PROSPECTIVE SUBCONTRACTORS OR REQUIREMENT FOR CERTIFICATIONS OF NONSEGREGATED FACILITIES

A certification of Nonsegregated Facilities, as required by the May 9, 1967, order (32 F.R. 7439, May 19, 1967) on Elimination of Segregated Facilities, by the Secretary of Labor, must be submitted prior to the award of a subcontract exceeding $10,000 which is not exempt from the provisions of the Equal Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually or annually).

NOTE: The penalty for making false statements in tenders is prescribed in 18 U.S.C. 1001, 15 U.S.C. 714m(a).

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

Effective date. Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on July 28, 1970.

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

[F.R. Doc. 70-10166; Filed, Aug. 4, 1970; 8:49 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

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

In § 76.2, in subparagraph (e) (14) relating to the State of Virginia, a new subdivision (ix) relating to Powhatan County is added to read:

(e) * * *

(14) *Virginia.*

* * * * *

(ix) That portion of Powhatan County bounded by a line beginning at the junction of the Spencer Magisterial District line and Secondary Highway 711; thence, following Secondary Highway 711 in a generally northwesterly direction to U.S. Highway 522; thence, following U.S. Highway 522 in a southwesterly direction to Secondary Highway 621; thence, following Secondary Highway 621 in a northwesterly direction to Solomons Creek; thence, following the east bank of the Solomons Creek in a northwesterly direction to the James River; thence, following the south bank of the James River in a generally northeasterly and thence southeasterly direction to the Spencer Magisterial District line; thence, following the Spencer Magisterial District line in a southwesterly direction to its junction with Secondary Highway 711.

(Secs. 4-7, 23 Stat. 32, as amended, secs. 1, 2, 32 Stat. 791-792, as amended, secs. 1-4, 33 Stat. 1264, 1265, as amended, sec. 1, 75 Stat. 481, secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111, 112, 113, 114g, 115, 117, 120, 121, 123-126, 134b, 134f; 29 F.R. 16210, as amended)

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

The amendment quarantines a portion of Powhatan County, Va., because of the existence of hog cholera. This action is deemed necessary to prevent further spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the quarantined area designated herein.

The amendment imposes certain further restrictions necessary to prevent the interstate spread of hog cholera and must be made effective immediately to accomplish its purpose in the public interest. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and contrary to the public interest, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 30th day of July 1970.

GEORGE W. IRVING, Jr.,
Administrator,
Agricultural Research Service.

[F.R. Doc. 70-10119; Filed, Aug. 4, 1970; 8:45 a.m.]

Title 12—BANKS AND BANKING

Chapter III—Federal Deposit Insurance Corporation

SUBCHAPTER B—REGULATIONS AND STATEMENTS OF GENERAL POLICY

PART 329—INTEREST ON DEPOSITS

Maximum Rates of Interest

1. Section 329.7 of the rules and regulations of the Federal Deposit Insurance

Corporation (12 CFR § 329.7) is amended and § 329.9 (12 CFR § 329.9) is revoked. The amendment and revocation are effective July 31, 1970. The amendment to section 329.7 is as follows:

§ 329.7 Maximum rates[14] of interest or dividends payable on deposits by insured nonmember mutual savings banks.

* * * * *

(f) *Insured nonmember mutual savings banks in Massachusetts*—(1) *General.* Except as provided in subparagraph (4) of paragraph (b) and subparagraphs (2), (3), and (4) of this paragraph (f), no insured nonmember mutual savings bank located in the Commonwealth of Massachusetts shall pay interest or dividends at a rate in excess of 5¼ percent per annum on any deposit.

(2) *Special notice account deposits.* No insured nonmember mutual savings bank located in the Commonwealth of Massachusetts shall pay interest or dividends at a rate in excess of 5½ percent per annum on any deposit which is subject to a written agreement with the depositor that such deposit may not be withdrawn in whole or in part other than pursuant to the terms of a withdrawal notice signed by the depositor and to be received by the bank not less than 90 days in advance of a 9-day withdrawal period.

(3) *Time deposits of 6 months or more.* No insured nonmember mutual savings bank located in the Commonwealth of Massachusetts shall pay interest or dividends on any time deposit of 6 months or more at a rate in excess of the applicable rate under the following schedule:

Maturity:	*Maximum percent per annum*
6 months or more but less than 1 year	5½
1 year or more but less than 2 years	5¾
2 years or more	6

(4) *Systematic savings account deposits.* No insured nonmember mutual savings bank located in the Commonwealth of Massachusetts shall pay interest or dividends on any systematic savings account deposit, as defined in section 22B of chapter 168 of the General Laws of the Commonweath of Massachusetts, at a rate in excess of the applicable rate under the following schedule:

Minimum period:	*Maximum percent per annum*
48 months	5½
96 months	5¾

2. a. The purpose of this amendment is to enable mutual savings banks in Massachusetts which are subject to this Corporation's interest regulations to compete more effectively with similar institutions in that state which are not subject to such regulation.

b. There was no notice and public participation with respect to this amendment, nor is the effective date thereof deferred after publication, since the Board of Directors found pursuant to section 302.6 of the Corporation's rules and regulations (12 CFR § 302.6) that, under the circumstances, such procedure would cause delay and would prevent the action from becoming effective as promptly as necessary in the public interest.

(Sec. 9, 18(g), 64 Stat. 881–82, 83 Stat. 371; 12 U.S.C. 1819, 1828(g))

By order of the Board of Directors, July 30, 1970.

FEDERAL DEPOSIT INSURANCE CORPORATION,
[SEAL] E. F. DOWNEY,
Secretary.

[F.R. Doc. 70–10153; Filed, Aug. 4, 1970; 8:48 a.m.]

[14] The maximum rate of interest payable by insured nonmember mutual savings banks as prescribed herein is not applicable to any deposit which is payable only at an office of an insured nonmember mutual savings bank located outside of the States of the United States and the District of Columbia.

Chapter VI—Farm Credit Administration

SUBCHAPTER A—ADMINISTRATIVE PROVISIONS

PART 605—EMPLOYEE RESPONSIBILITIES AND CONDUCT

Prohibited Acts

Part 605 of Chapter VI of Title 12 of the Code of Federal Regulations is amended by adding at the end of § 605.174 (32 F.R. 17652) a new paragraph (h) as follows:

§ 605.174 Prohibited acts.

* * * * *

(h) Shall, while he serves on a bond or debenture committee, purchase or acquire directly or indirectly ownership of, or any interest in, any of such obligations of the bank of which he is such an officer.

(Sec. 17, 39 Stat. 375, as amended, sec. 2, 42 Stat. 1459, sec. 6, 47 Stat. 14, as amended; 12 U.S.C. 665, 831, 1101)

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

[F.R. Doc. 70–10147; Filed Aug. 4, 1970; 8:48 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

PART 501—REGULATIONS EXEMPTING CERTAIN COMMODITIES FROM FULL OR PARTIAL COMPLIANCE WITH SECTION 4, FAIR PACKAGING AND LABELING ACT AND THE REGULATIONS THEREUNDER

Christmas Tree Ornaments

Notice is given that no objections were filed in the matter of § 501.2 which prescribed an exemption for Christmas tree ornaments from the net quantity statement requirements of Part 500 of the Fair Packaging and Labeling Act regulations (35 F.R. 9108). Accordingly, the effective date of § 501.2, July 9, 1970, is confirmed.

Issued: July 29, 1970.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 70–10176; Filed, Aug. 4, 1970; 8:50 a.m.]

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

Grated Cheeses; Confirmation of Effective Date of Order Establishing Identity Standard

In the matter of establishing a definition and standard of identity for grated cheeses (§ 19.791):

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), notice is given that no objections were filed to the order in the above-identified matter published in the FEDERAL REGISTER of May 21, 1970 (35 F.R. 7791). Accordingly, the regulation promulgated by that order became effective July 20, 1970.

Dated: July 28, 1970.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70–10133; Filed, Aug. 4, 1970; 8:47 a.m.]

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

PART 320—DEPRESSANT AND STIMULANT DRUGS; DEFINITIONS, PROCEDURAL AND INTERPRETATIVE REGULATIONS

Notice of Confirmation of Effective Date of Order Listing MDA, MMDA, TMA, JB–318, and JB–336 and Their Salts as Drugs Subject to Control

In the matter of listing of MDA, MMDA, TMA, JB–318, and JB–336 and their salts as depressant or stimulant drugs within the meaning of section 201

(v) of the Federal Food, Drug, and Cosmetic Act because of their hallucinogenic effect:

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(v), 511, 701, 52 Stat. 1055, as amended, 79 Stat. 227 et seq.; 21 U.S.C. 321(v), 360a, 371), and under the authority vested in the Attorney General by Reorganization Plan No. 1 of 1968 (33 F.R. 5611) and redelegated to the Director, Bureau of Narcotics and Dangerous Drugs (28 CFR 0.100), notice is given that no objections were filed to the order in the above-identified matter published in the FEDERAL REGISTER of May 5, 1970 (35 F.R. 7069). Accordingly, the amendments promulgated by that order became effective June 6, 1970.

Dated: July 22, 1970.

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

[F.R. Doc. 70-10149; Filed, Aug. 4, 1970; 8:48 a.m.]

Title 26—INTERNAL REVENUE

Chapter II—Tax Court of the United States

DELETION OF CHAPTER

Whereas, the Tax Reform Act of 1969, 83 Stat. 487, approved December 30, 1969, amending section 7441 of the Internal Revenue Code, established the U.S. Tax Court as a court of record under article I of the Constitution of the United States; and

Whereas, publication in the FEDERAL REGISTER of the Court's public notices, orders, rules, and other public documents is no longer within the purview of the Administrative Procedure Act:

Now, therefore, the material appearing under Chapter II, Title 26 of the Code of Federal Regulations, is deleted, and the codification determinations assigned to the Court in its former status under the executive branch of the Government are relinquished.

This action is effective upon publication in the FEDERAL REGISTER.

Dated: July 31, 1970.

By the Court.

WILLIAM M. DRENNEN,
Chief Judge, U.S. Tax Court.

[F.R. Doc. 70-10117; Filed, Aug. 4, 1970; 8:45 a.m.]

Title 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 113—INFORMATION ON POSTAL SERVICE AND RECORDS RELATING TO OPERATION OF THE DEPARTMENT

Schedule of Fees

In the daily issue of June 9, 1970 (35 F.R. 8892), the Department published a notice of proposed rule making consisting of an amendment to § 113.5(a), Title 39, Code of Federal Regulations. The proposed amendment would authorize the Department to recover costs incurred in compiling reports and studies made by the Bureau of Planning and Marketing, or by other Bureaus or Offices of the Department.

Interested persons were given 30 days within which to submit comments on the proposed amendment. No comments were received.

The Department has determined that the proposed amendment be adopted, without change. Accordingly, the following amendment is hereby adopted, to be effective on the 30th day following the date of this publication in the FEDERAL REGISTER.

In § 113.5 *Schedule of fees,* add new subparagraph (4) to paragraph (a) *Record retrieval,* to read as follows:

§ 113.5 Schedule of fees.

(a) *Record retrieval.* * * *

(4) For compiling and processing data used in reports made by the Department, the charge shall consist of the hourly compensation and fringe costs of and overhead costs attributable to the employees directly involved; computer time, if any; and other costs of mechanical reproduction with minimum charges stated for record retrieval. The action organization shall notify the person requesting such reports of the estimated cost thereof in advance.

* * * * *

NOTE: The corresponding Postal Manual section is 113.514.

(5 U.S.C. 301, 39 U.S.C. 501)

DAVID A. NELSON,
General Counsel.

[F.R. Doc. 70-10150; Filed, Aug. 4, 1970; 8:48 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[FCC 70-819]

PART 21—DOMESTIC PUBLIC RADIO SERVICES (OTHER THAN MARITIME MOBILE)

Memorandum Opinion and Order

1. The Commission has before it a petition captioned as above, filed on June 11, 1970, by Varian Associates, Solid State Division, Micro Link Products (Varian), seeking a declaratory ruling relating to § 21.703(g) of the rules, insofar as it applies to the band segment 2150–2160 MHz.

2. With respect to the frequency band 2110–2200 MHz, § 21.703(g) presently states:

The maximum bandwidth authorized in this service in the following frequency bands shall not exceed the limits set forth below:

Frequency band (MHz)	*Authorized bandwidth (MHz)*
2110–2200 * * * etc. * * *	3.5

3. Petitioner contends that the Commission did not intend to specify any particular maximum authorized bandwidth for stations operating within the frequency band 2150–2160 MHz and traces the allocation history, of the band in support of its contention. The overall band 2110–2200 MHz was first allocated in 1959 for common carrier use, on a shared basis with private systems, in the fifth report and order in Docket No. 12404 (24 F.R. 1417). When rules implementing that allocation were adopted in a subsequent order (24 F.R. 6052) that same year, those rules specified a 5 MHz bandwidth for the entire band 2110–2200 MHz.

4. In July 1962, the Commission initiated rule making in Docket No. 14712 looking toward separate allocations within the band 2110–2200 MHz for common carrier and private users and for the reservation of a portion of the band for the development of omnidirectional, nonbroadcast systems. It was intended that the band be divided into four 20-MHz segments and one of 10-MHz with the latter being made available for omnidirectional use on a shared basis by both common carrier and private users. The discussions throughout the proceeding made it clear that references to "narrow-band" systems did not include the omnidirectional systems. The report and order in this proceeding in December 1962 (27 F.R. 12372) allocated 2110–2130 MHz and 2160–2180 MHz exclusively to common carriers and 2130–2150 MHz and 2180–2200 MHz exclusively to noncommon carriers, i.e., operational fixed and international control, and stipulated that a maximum of 800 kHz would be authorized in each of those four bands. In the case of the band 2150–2160 MHz, however, paragraph 8 of the report and order is particularly pertinent and is quoted herewith, in part:

The recommendation submitted by EIA to provide a 5 Mc/s segment at each end of the 2110–2200 Mc/s band in order to permit development of duplex omnidirectional, nonbroadcast systems in lieu of the 10 Mc/s segment as proposed, has considerable merit. However, the segment was envisioned for the development of broadband systems which could not be derived from the 952–960 Mc/s band because of narrow band limitation on that band * * *

5. The concluding paragraph of that Report and Order read, in part, as follows:

* * * Part 2 of the Commission's rules is amended as set forth in the attached appendix effective January 15, 1963. Necessary amendments to Parts 6, 7, 9, 10, 11, 16, and 21 of the rules will follow, with changes to each part as appropriate.

Those amendments to other Parts of the rules were subsequently issued and we find those dealing with operational fixed stations unchanged as of today—except with respect to Rule Part numbers. Sections 89.121, 91.111, and 93.111 all show the following:

Frequency band (MHz)		*Maximum authorized bandwidth*
2130–2150	kHz	800
2150–2160	MHz	10
2180–2200	kHz	800

Part 21, on the other hand, did not break the band into segments but used the more general listing of 2110–2200 MHz and indicated 800 kHz as the maximum bandwidth to be authorized.

6. Later, on July 25, 1967, a petition was filed (RM–1188) seeking amendment of § 21.703(g) so as to provide for a maximum authorized bandwidth of 3.5 MHz in lieu of the 800 kHz maximum then in force. Again, however, that petition was directed clearly at the frequency bands 2110–2130 and 2160–2180 MHz. Nonetheless, because of the earlier loose amendment of this Section, when the petition was granted it amended the overall band 2110–2200 MHz across the board, even though common carriers had no access to 40 MHz of that total spectrum space and only shared access to another 10 MHz of it.

7. Additionally, it should be noted that the Commission in responding affirmatively to the above petition modified Note 3 under § 21.701 of its rules to reflect a prohibition against television in the band segments 2110–2130 and 2160–2180 MHz and the imposition of a limit of 3.5 MHz with respect to maximum authorized bandwidth in those same band segments. At the same time, however, 2150–2160 MHz was not similarly limited.

8. In light of the above, Varian obviously is correct in its assertions and Part 21 should be amended accordingly. Further, in view of the fact that there are now no Commission licensees operating on a regular basis in the band 2150–2160 MHz and hence none whom could be affected adversely by a Commission action calling for a modification of the terms under which access thereto might be effected, § 21.703(g) is amended, with respect to the frequency band 2100–2200 MHz to reflect the following:

Frequency band (MHz)	*Maximum authorized bandwidth (MHz)*
2110–2130	3.5
2150–2160	10.0
2160–2180	3.5

9. Section 21.703(h), which now reads as follows, is retained, unchanged in its entirety:

(h) The bandwidths authorized on frequencies above 500 MHz shall be appropriate to the type of operation in any particular case. An application requesting such authorization shall fully describe the modulation, emission, and bandwidth desired and shall specify the bandwidth to be occupied.

10. In view of the considerations set forth above, compliance with the public notice requirements of 5 U.S.C. § 553 is unnecessary, and since the amendment relieves an existing restriction, the amendment may be made effective August 7, 1970.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Adopted: July 29, 1970.

Released: July 31, 1970.

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

[1] Chairman Burch absent.

In § 21.703(g), the entry for the frequency band 2110–2200 MHz and bandwidth 3.5 MHz is deleted and the following three entries added in lieu thereof:

§ 21.703 Bandwidth and emissions limitations.

* * * * * *

(g) * * *

Frequency Band (MHz)	*Authorized Bandwidth (MHz)*
2110–2130	3.5
2150–2160	10.0
2160–2180	3.5

* * * * *

[F.R. Doc. 70–10170; Filed, Aug. 4, 1970; 8:49 a.m.]

Title 49—TRANSPORTATION

Chapter II—Federal Railroad Administration, Department of Transportation

[Docket No. FRA–SIG 3]

PART 235—INSTRUCTIONS GOVERNING APPLICATIONS FOR APPROVAL OF A DISCONTINUANCE OR MATERIAL MODIFICATION OF A SIGNAL SYSTEM

The purpose of this amendment is to add a new Part 235 "Instructions Governing Applications for Approval of a Discontinuance or Material Modification of a Signal System" to Title 49 of the Code of Federal Regulations.

Instructions governing applications under section 25 of the Interstate Commerce Act, 49 U.S.C. 26, were issued March 15, 1954, 15 F.R. 1530. Under these instructions, questions of interpretation have arisen about what constituted a material modification or a discontinuance of a signal system requiring an application for approval. On January 26, 1967, revised instructions were published as Part 135 of Title 49 of the Code of Federal Regulations in the FEDERAL REGISTER, 32 F.R. 927. On March 8, 1967, the Association of American Railroads filed a petition opposing several particulars of the new instructions. The Interstate Commerce Commission vacated and set aside the new instructions on March 30, 1967.

Since that time there have been several meetings with staff members of AAR and Brotherhood of Railroad Signalman concerning these instructions on the application for approval of material modifications and discontinuances. This proposed revision of Part 135 (will be Part 235 since the regulations of the Federal Railroad Administration (FRA) are now in chapter II of title 49) generally meets the objections to the original Part 135 issued by the Interstate Commerce Commission on January 26, 1967. It basically conforms with the 1954 instructions. In addition to updating Part 135 the following changes were made:

1. Section 235.2 *Discontinuances or modifications requiring filing of applications.* This basic section of the instructions has not been materially changed from the wording of the 1954 instructions. Paragraph 5(B) (a) and (b) of the 1954 instructions (§ 135.2(b) (1) and (2)) have been deleted. These subsections did not clarify what was a material modification and were interpreted as restrictive. The section now generally rewords existing instructions.

2. Section 235.3 *Modifications not requiring filing of applications.* This section has been revised and rewritten basically for purposes of clarification; the important changes are:

a. Section 235.3(a)(1) broadens paragraph 6(b) of the 1954 instructions (§ 135.3(b)) to include signal changes made as the result of occurrences not based on carrier's actions, such as floods, fires, highway construction, etc. Where such events require the carrier to change its signal system, approval of FRA is not required. Section 235.3(a) provides that any signal change exempt from FRA approval must result in a system that complies with Part 236.

b. Section 235.3(a)(6) exempts all changes in the type of signal or aspect displayed. This replaces paragraphs 6 (e) and (f) of the 1954 instructions (§ 135.3 (e) and (f)) which were deleted. It broadens these former exemptions by removing their limitations to signals and aspects governing stopping distances or changes in aspects occasioned by removal of track.

3. Section 235.10 *Form of application.* This section amends § 135.10 by deleting the subsection (b) which required the petition to meet numerous requirements as to the paper and typing to be used in making an application.

4. Section 235.11 *Contents of application.* This section changes § 135.11 by deleting the phrase "including separate tabulations for all units to be installed, changed or removed" from § 135.11(e) and deleting § 135.11(g). These changes delete unnecessary information from the application. The section is basically the same as the 1954 instructions except for the elimination of information on whether the carrier has authorized the necessary expenditure (paragraph 7(g)) and the action by State authorities (paragraph 7(h)).

5. Section 235.12 *Additional required information—prints.* This section is basically unchanged from section 135.12 except the use of colors for designating the signals being changed on the prints submitted with the application is optional and not required as in § 135.12(e). This section requires the same information as paragraph 7(m) of the 1954 instructions but more explicit and detailed language is used.

6. Section 235.13 *Filing procedure.* In this section the filing procedure has been updated and subsection (e) of § 135.13 has been restored to the same language used in the first subparagraph of paragraph 2 of the 1954 instructions.

7. Section 235.14 *Notice.* This section is now an updated paragraph 8 of the 1954 instructions. Subsections (b) and (c) of § 135.14 have been deleted. These subsections required the carrier to serve copies on State officials and various labor unions. These persons are mailed copies of all public notices of applications issued by FRA and there is no need for the carrier to notify them when it files its

application. Subsection (d) was also deleted. The subsection required the carrier to proofread the FRA public notices and report any errors.

8. Section 235.20 *Protests*. Subsection (c) of this section provides that protests shall be filed within the time limits set forth in the Public Notice. The requirement for filing in 30 days after publication provided in subsection (a) of § 135.20 was deleted. Paragraph 9 of the 1954 instructions did not provide any time limit for filing protests.

In consideration of the foregoing Title 49 of the Code of Federal Regulations is amended by adding a new Part 235 as set forth below. Part 235 shall become effective on September 1, 1970.

Issued in Washington, D.C., on July 30, 1970.

C. V. LYON,
Acting Administrator,
Federal Railroad Administration.

Sec.
235.1 Scope.
235.2 Discontinuances or modifications requiring filing of applications.
235.3 Discontinuances or modifications not requiring filing of applications.
235.10 Form of application.
235.11 Contents of application.
235.12 Additional required information—prints.
235.13 Filing procedure.
235.14 Notice.
235.20 Protests.

AUTHORITY: The provisions of this Part 235 issued under sec. 12, 24 Stat. 383, sec. 441, 41 Stat. 498, sec. 6, 80 Stat. 939, 940; 49 U.S.C. 12, 26, 1655.

§ 235.1 Scope.

The rules in this part govern applications by common carriers subject to section 26 of title 49 of the United States Code, for approval of discontinuance or material modification of installations of block signal systems, interlocking, traffic control systems, and automatic train stop, train control, or cab signal systems.

§ 235.2 Discontinuance or modifications requiring filing of applications.

(a) Except as provided in § 235.3, applications shall be filed to cover the following:

(1) The discontinuance of an interlocking, or the discontinuance or the decrease of the area covered by a block signal system, a traffic control system, an automatic train stop, train control or cab signal system.

(2) The material modifications of an interlocking, a block signal system, a traffic control system or an automatic train stop, train control or cab signal system.

§ 235.3 Discontinuance or modifications not requiring filing of applications.

(a) When the resulting arrangement will comply with the Rules, Standards, and Instructions, it is not necessary to file an application to cover the following:

(1) Installation, relocation or removal of signals to provide adequate stopping distance; relocation or addition of one signal; temporary or permanent arrangements or incidental or minor permanent arrangements due to changes such as highway rail separations; or for similar arrangements account of catastrophic occurrences such as derailments, floods, fires and hurricanes.

(2) A modification which is required to comply with an order of the Federal Railroad Administration or any section of the Rules, Standards, and Instructions (Part 236 of this chapter).

(3) Installation, relocation or removal of signals and/or interlocked switches, derails, movable-point frogs and/or power-operated switches, derails, movable-point frogs, or electric locks, occasioned by new tracks; change in type of interlocking; extension, shortening, or elimination of second main track or passing siding; a line relocation; or other track changes not involving change of system.

(4) Removal of signals and/or interlocked switches, derails, movable-point frogs, and/or power-operated switches, derails, movable point frogs or electric locks associated with track being abandoned.

(5) Conversion of hand-operated switch, electrically locked hand-operated switch or spring switch to a power-operated switch.

(6) Change in type of signal or of aspects displayed.

(7) Closing of a manual block station or change in hours during which a manual block station and/or interlocking is attended.

(8) Substitution of other type of protection for crossing gates at railroad crossing at grade.

(9) Change in location from which an interlocking or traffic control system is controlled.

(10) To install devices supplementary to automatic block signal system, interlocking, traffic control system, automatic train stop, train control or cab signal system, which supplementary devices do not nullify or impair proper functioning of such systems.

§ 235.10 Form of application.

(a) The application may be submitted by a letter setting forth the information required by § 235.11.

§ 235.11 Contents of application.

(a) Applications governed by this part shall contain the following information:

(1) The corporate name of each applicant.

(2) The manner in which each applicant is involved.

(3) The location of the project, giving name of operating division and nearest station.

(4) Track or tracks involved.

(5) Complete description of proposed changes as they would affect the existing facilities.

(6) Reason for proposed change.

(7) Approximate dates of beginning and completion of project.

(8) Changes in operating practices, temporary or permanent.

(9) Whether safety of operation will be affected, and if so, how.

(10) Whether proposed changes will conform to Federal Railroad Administration's Rules, Standards, and Instructions (Part 236 of this Chapter).

§ 235.12 Additional required information—prints.

(a) A print or prints, size 8 inches by 10½ inches or 8½ inches by 11 inches or folded to 8 inches by 10½ inches or 8½ inches by 11 inches shall be furnished with each application.

(b) The print or prints shall be to scale or by indicated dimensions, using Association of American Railroad graphic symbols.

(c) The following information shall be shown on the print of prints:

(1) Present and proposed arrangement of tracks and signal facilities,

(2) Name of carrier,

(3) Operating division,

(4) Place and State, and

(5) Timetable directions of movements.

(d) If stopping distances are involved, the following information shall also be shown:

(1) Curvature and grade,

(2) Maximum authorized speeds of trains,

(3) Maximum length and weight of trains,

(4) Computation of braking distances based on subparagraphs (1), (2), and (3) of this paragraph, and

(5) Length of signal control circuits for each signal indication displayed.

(e) The following color scheme is suggested on prints:

(1) Installations, relocations, and added signal aspects should be colored preferably in yellow.

(2) Removals, discontinuances, and abandonments should be colored, preferably in red.

(3) Existing facilities not pertinent to change proposed in application should be shown uncolored.

§ 235.13 Filing procedure.

(a) Applications shall be submitted by the President, Vice President, General Manager, Receiver, Trustee, or Chief Operating Officer, or other authorized officer.

(b) The original and two copies of each application with supporting papers should be filed.

(c) The application and correspondence in reference thereto should be addressed to the Director, Bureau of Railroad Safety, Federal Railroad Administration, Washington, D.C. 20591.

(d) A separate application shall be filed for each project.

(e) At a joint facility where changes are proposed in the automatic block signal system, interlocking, traffic control system, automatic train-stop, train-control or cab-signal system on the tracks of more than one carrier, or if more than one carrier would be affected by the relief from any provision of the Rules, Standards and Instructions, a joint application signed by all carriers affected shall be filed.

(f) Where only one carrier at a joint facility is affected by the discontinuance or modification of the installation, it

shall be responsible for filing the application. It shall also certify that the other joint carriers have been notified of the filing of its application.

§ 235.14 Notice.

(a) FRA will post public notice of the filing of an application in the Office of Public Affairs and will mail copies to all interested parties.

§ 235.20 Protests.

(a) A protest against the granting of an application shall set forth specifically the grounds upon which it is made, and contain a concise statement of the interest of protestant in the proceeding.

(b) The original and two copies of any protest shall be filed with the Director, Bureau of Railroad Safety, Federal Railroad Administration, Washington, D.C. 20591, and one copy shall be furnished to each applicant.

(c) Protests should be filed within the time limit set forth in the public notice.

(d) The protestant shall certify that service of a copy of its protest was made upon each applicant.

(e) Request for hearing must be accompanied with a showing why the protestant is unable to properly present his position by written statements.

[F.R. Doc. 70-10118; Filed, Aug. 4, 1970; 8:45 a.m.]

[Docket No. FRA-SIG 2]

PART 236—INSTALLATION, INSPECTION, MAINTENANCE AND REPAIR OF SIGNAL SYSTEMS, DEVICES AND APPLIANCES

Applicability of This Part, Relief and Instructions Governing Applications for Relief

The purpose of these amendments is to incorporate in Part 236 of Title 49 of the Code of Federal Regulations the instructions governing applications for relief from the regulations of said part. These instructions were originally issued on August 11, 1950, by the Interstate Commerce Commission but have not been included in the Code of Federal Regulations.

Section 236.0 is amended by adding paragraph (b) (formerly § 236.16), and by adding paragraph (c), the instructions for applications for relief.

Section 236.16 is deleted and made § 236.0(b) in order to clarify its purpose to provide relief from all the rules of Part 236. In its present position in Subpart A it could be construed as limited to Subpart A whereas it was intended to cover all the rules in all the subparts of Part 236.

Section 236.0(c) provides for the publication in the Code of Federal Regulations for the first time of the instructions governing applications for relief from the requirements of Part 236. Publication of these instructions is desired since the introduction to Part 211—Rule-Making Procedures of the Federal Railroad Administration—provides that the instructions of August 11, 1950, remain in effect insofar as they are not inconsistent. Section 236.0(b) will fill this gap in the Code of Federal Regulations by making them readily accessible to any applicant. The instructions of August 11, 1950, have not been substantially altered. However, the following changes should be noted:

1. The instructions now apply to all rules in Part 236 and are not limited to the specific rules listed in the heading to the 1950 instructions.

2. Paragraph 3 of the 1950 instructions has been amended to require one additional copy of the application. This is now required by § 211.11(b)(1) of the Rule-Making Procedures of the Federal Railroad Administration (49 CFR 211.11 (b)(1)).

3. Paragraph 4 of the 1950 instructions has been amended to remove the requirement for a specific form for filing an application.

4. The other changes in the 1950 instructions are necessary to show the transfer of functions from the Interstate Commerce Commission to the Federal Railroad Administration.

These amendments will become effective on September 1, 1970. In consideration of the foregoing Title 49 of the Code of Federal Regulations is amended as set forth below.

Issued in Washington, D.C., on July 30, 1970.

C. V. LYON,
Acting Administrator,
Federal Railroad Administration.

The index to said part is amended by deleting the following two items:

Sec.
236.0 Applicability of this part.
236.16 Relief.

and substituting therefor the following:

Sec.
236.0 Applicability of this part, relief and instructions governing applications for relief.

Section 236.0 entitled *Applicability of this part* is hereby deleted and the following is substituted therefor:

§ 236.0 Applicability of this part, relief and instructions governing applications for relief.

(a) The following rules, standards, and instructions are hereby approved and prescribed for observance by each common carrier subject to the provisions of section 26 of title 49 of the United States Code.

(b) Relief from the requirements of this part will be granted upon an adequate showing by an individual carrier. Relief heretofore granted to any carrier shall constitute relief to the same extent as relief granted under the requirements of this part.

(c) In filing an application for relief from any of the sections of this part the procedure outlined below should be followed:

(1) An application should be submitted by the President, Vice President, General Manager, Receiver, Trustee or Chief Operating Officer, or other authorized officer.

(2) If more than one carrier would be affected by the relief sought, a joint application should be filed by all carriers affected.

(3) The original and two copies of each application with supporting papers should be filed.

(4) An application may be submitted in the form of a letter and should include the number of the rule from which relief is sought and all other pertinent information including justification for such relief.

(5) Notice:

(i) FRA will post Public Notice of the filing of an application in the Office of Public Affairs and will mail copies to all interested parties.

(6) A protest against the granting of an application shall set forth specifically the grounds upon which it is made, and contain a concise statement of the interest of protestant in the proceeding. The original and two copies of any protest shall be filed with the Director, Bureau of Railroad Safety, Federal Railroad Administration, Washington, D.C. 20591, and one copy shall be furnished to each applicant. Protests should be filed within the time set forth in the notice.

(7) Each application and correspondence in reference thereto should be addressed to the Director, Bureau of Railroad Safety, Federal Railroad Administration, Washington, D.C. 20591.

(8) These instructions are supplemental to the Rule-Making Procedures of the Federal Railroad Administration, 49 CFR 211.

(9) Requests for hearing by a protestant must be accompanied with a showing why protestant is unable to properly present his position by written statements.

[F.R. Doc. 70-10116; Filed, Aug. 4, 1970; 8:45 a.m.]

Title 50—WILDLIFE AND FISHERIES

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

PART 32—HUNTING

Aransas National Wildlife Refuge, Tex.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

TEXAS

ARANSAS NATIONAL WILDLIFE REFUGE

Public hunting of deer, wild hogs, and javelina on a portion of the Aransas National Wildlife Refuge, Tex., with bow and arrow is permitted from September 10 through September 30, 1970, inclusive. That portion open to hunting is

designated by signs and delineated on maps available at refuge headquarters in Austwell, Tex., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, N. Mex. 87103. Hunting shall be in accordance with applicable State hunting regulations subject to the following special conditions:

(1) A bag limit of three (3) deer, one of which must be antlerless, and one (1) javelina may be taken by each hunter. There is no limit as to the number of wild hogs taken.

(2) All hunters must check in and out of the hunting area at the refuge entrance on Texas Farm Road 2040.

(3) A valid 1970–71 State of Texas hunting license is required of each participant.

(4) All hunting arrows must bear the name and address of the user in nonwater-soluble medium.

(5) Possession of target or field arrows outside of the vehicle on the refuge is prohibited.

(6) Shooting at, or of other wildlife species on the refuge other than deer, javelina, or wild hogs is prohibited.

(7) All motor vehicles must travel only on the shell surfaced roads or designated trails of the refuge.

(8) No deer may be removed from the refuge without a metal transportation seal being attached to the carcass by a refuge officer.

(9) In the event of the arrival of any whooping cranes, the refuge or any portion thereof may be immediately closed to hunting.

The provisions of this special regulation, supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through September 30, 1970.

GORDON H. HANSEN,
Refuge Manager, Aransas National Wildlife Refuge, Austwell, Tex.

JULY 23, 1970.

[F.R. Doc. 70–10111; Filed, Aug. 4, 1970; 8:45 a.m.]

PART 32—HUNTING

Quivira National Wildlife Refuge, Kans.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

KANSAS

QUIVIRA NATIONAL WILDLIFE REFUGE

Public hunting of cottontail rabbits, squirrel, and crows on the Quivira National Wildlife Refuge, Kans., is permitted during the early Teal season from September 5 through September 13, 1970, inclusive, but only in the areas designated by signs as open to hunting. These open areas, comprising 7,990 acres, are delineated on maps available at refuge headquarters, Stafford, Kans., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, N. Mex. 87103.

Hunting shall be in accordance with all applicable State regulations governing the hunting of cottontail rabbits, squirrel, and crows subject to the following special conditions:

(1) The use of rifles is prohibited for taking rabbits, squirrel, and crows.

(2) The hunting of any species after sunset is prohibited.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through September 13, 1970.

WILLIAM J. WILSON,
Acting Refuge Manager, Quivira National Wildlife Refuge, Stafford, Kans.

JULY 24, 1970.

[F.R. Doc. 70–10112; Filed, Aug. 4, 1970; 8:45 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

CHARITABLE REMAINDER TRUSTS

Notice of Proposed Rule Making

Notice is hereby given that the regulations set forth in tentative form in the attached appendix are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] WILLIAM H. SMITH,
Acting Commissioner of Internal Revenue.

In order to provide regulations under section 664 of the Internal Revenue Code of 1954 as added by section 201(e) of the Tax Reform Act of 1969 (Public Law 91–172, 83 Stat. 562), the Income Tax Regulations (26 CFR, Part 1) are amended as follows:

PARAGRAPH 1. The following new sections are added immediately after § 1.663–4:

§ 1.664 Statutory provisions; charitable remainder trusts.

Sec. 664. *Charitable remainder trusts*—(a) *General rule.* Notwithstanding any other provision of this subchapter, the provisions of this section shall, in accordance with regulations prescribed by the Secretary or his delegate, apply in the case of a charitable remainder annuity trust and a charitable remainder unitrust.

(b) *Character of distributions.* Amounts distributed by a charitable remainder annuity trust or by a charitable remainder unitrust shall be considered as having the following characteristics in the hands of a beneficiary to whom is paid the annuity described in subsection (d)(1)(A) or the payment described in subsection (d)(2)(A):

(1) First, as amounts of income (other than gains, and amounts treated as gains, from the sale or other disposition of capital assets) includible in gross income to the extent of such income of the trust for the year and such undistributed income of the trust for prior years;

(2) Second, as a capital gain to the extent of the capital gain of the trust for the year and the undistributed capital gain of the trust for prior years;

(3) Third, as other income to the extent of such income of the trust for the year and such undistributed income of the trust for prior years; and

(4) Fourth, as a distribution of trust corpus.

For purposes of this section, the trust shall determine the amount of its undistributed capital gain on a cumulative net basis.

(c) *Exemption from income taxes.* A charitable remainder annuity trust and a charitable remainder unitrust shall, for any taxable year, not be subject to any tax imposed by this subtitle, unless such trust, for such year, has unrelated business taxable income (within the meaning of section 512, determined as if part III of subchapter F applied to such trust).

(d) *Definitions*—(1) *Charitable remainder annuity trust.* For purposes of this section, a charitable remainder annuity trust is a trust—

(A) From which a sum certain (which is not less than 5 percent of the initial net fair market value of all property placed in trust) is to be paid, not less often than annually, to one or more persons (at least one of which is not an organization described in section 170(c) and, in the case of individuals, only to an individual who is living at the time of the creation of the trust) for a term of years (not in excess of 20 years) or for the life or lives of such individual or individuals,

(B) From which no amount other than the payments described in subparagraph (A) may be paid to or for the use of any person other than an organization described in section 170(c), and

(C) Following the termination of the payments described in subparagraph (A), the remainder interest in the trust is to be transferred to, or for the use of, an organization described in section 170(c) or is to be retained by the trust for such a use.

(2) *Charitable remainder unitrust.* For purposes of this section, a charitable remainder unitrust is a trust—

(A) From which a fixed percentage (which is not less than 5 percent) of the net fair market value of its assets, valued annually, is to be paid, not less often than annually, to one or more persons (at least one of which is not an organization described in section 170(c) and, in the case of individuals, only to an individual who is living at the time of the creation of the trust) for a term of years (not in excess of 20 years) or for the life or lives of such individual or individuals.

(B) From which no amount other than the payments described in subparagraph (A) may be paid to or for the use of any person other than an organization described in section 170(c), and

(C) Following the termination of the payments described in subparagraph (A), the remainder interest in the trust is to be transferred to, or for the use of, an organization described in section 170(c) or is to be retained by the trust for such a use.

(3) *Exception.* Notwithstanding the provisions of paragraphs (2) (A) and (B), the trust instrument may provide that the trustee shall pay the income beneficiary for any year—

(A) The amount of the trust income, if such amount is less than the amount required to be distributed under paragraph (2)(A), and

(B) Any amount of the trust income which is in excess of the amount required to be distributed under paragraph (2)(A), to the extent that (by reason of subparagraph (A)) the aggregate of the amounts paid in prior years was less than the aggregate of such required amounts.

(e) *Valuation for purposes of charitable contribution.* For purposes of determining the amount of any charitable contribution, the remainder interest of a charitable remainder annuity trust or charitable remainder unitrust shall be computed on the basis that an amount equal to 5 percent of the net fair market value of its assets (or a greater amount, if required under the terms of the trust instrument) is to be distributed each year.

[Sec. 664 as added by sec. 201(e) of the Tax Reform Act of 1969 (Public Law 91–172, 83 Stat. 562)]

§ 1.664–1 Charitable remainder trusts.

(a) *General rule.* (1) For any taxable year, except a taxable year in which it has unrelated business taxable income, a trust created after July 31, 1969, which is a charitable remainder annuity trust (as defined in § 1.664–2) or a charitable remainder unitrust (as defined in § 1.664–3) is exempt from all of the taxes imposed by subtitle A of the Code. As used in this section and §§ 1.664–2, 1.664–3, and 1.664–4, (i) the term "charitable remainder trust" means a charitable remainder annuity trust (as defined in § 1.664–2) or a charitable remainder unitrust (as defined in § 1.664–3); (ii) the term "recipient" means a person who receives the possession or beneficial enjoyment of the amounts described in paragraphs (a)(1) of §§ 1.664–2 and 1.664–3; and (iii) the term "governing instrument" has the same meaning as that term does in section 508(e) and the regulations thereunder. If the trust has unrelated business taxable income, see paragraph (c) of this section. For the taxability of distributions to recipients, see paragraph (d) of this section. For trusts with short taxable years, see paragraph (e) of this section. See paragraph (a)(6) of § 1.6012–3 for rules relating to the filing of returns for charitable remainder trusts.

(2) In order for a trust to be exempt under section 664(c), it must be either a charitable remainder annuity trust in every respect or a charitable remainder unitrust in every respect. For example, a trust which provides for the payment each year to a noncharitable beneficiary of the greater of a sum certain or a fixed

percentage of the value of the trust assets is not exempt inasmuch as the trust is neither a charitable remainder annuity trust (for the reason that the payment for the year may be a fixed percentage of the value of the trust assets which is not a "sum certain") nor a charitable remainder unitrust (for the reason that the payment for the year may be a sum certain which is not a "fixed percentage" of the trust assets).

(3) In order for a trust to be exempt under section 664(c), it must meet the definition of and function exclusively as a charitable remainder trust from the creation of the trust. Solely for the purposes of this section and §§ 1.664–2, 1.664–3, and 1.664–4, a charitable remainder trust will be deemed to be created at the earliest time that the grantor or any other person is not treated as the owner of such trust, or any portion thereof, under subpart E of part 1 of subchapter J of chapter 1 or title A of the Code or would not be so treated except for the fact that the grantor or his spouse is named a recipient, but in no event prior to the time property is first transferred to the trust. The application of the rule in this subparagraph may be illustrated by the following examples:

Example (1). In 1971, H creates a revocable trust which is to pay W 5 percent of the value of the trust assets, valued annually, for her life, remainder to charity. The trust is not a charitable remainder trust since it is revocable. In 1975, H predeceases W at which time the trust becomes irrevocable. At H's death, the trust becomes a charitable remainder trust, if all of the other requirements of a charitable remainder trust are met.

Example (2). The facts are the same as in example (1), except that the residue of H's estate is to be paid to the trust and the trust is required to pay H's debts. The trust is not a charitable remainder trust at H's death because it does not function exclusively as a charitable remainder trust from the date it became irrevocable. If, on the other hand, the debts are paid by H's estate and any remaining amount is paid to the trust, the trust qualifies as a charitable remainder trust.

(b) *Application of certain foundation rules to charitable remainder trusts.* See section 4947(a)(2) and the regulations thereunder for the application of certain provisions relating to private foundations to charitable remainder trusts. See section 508(e) for rules relating to required provisions in governing instruments prohibiting certain activities specified in section 4947(a)(2).

(c) *Taxation of nonexempt charitable remainder trusts.* If the charitable remainder trust has any unrelated business taxable income (within the meaning of section 512 and the regulations thereunder, determined as if part III of subchapter F of chapter 1 of subtitle A of the Code applied to such trust) for any taxable year, the trust is subject to all of the taxes imposed by subtitle A of the Code for such taxable year. For taxable years beginning after December 31, 1969, unrelated business taxable income includes debt-financed income. The taxes imposed by subtitle A of the Code upon a nonexempt charitable remainder trust shall be computed under the rules prescribed by subpart C of part 1 of subchapter J of chapter 1 of subtitle A of the Code for trusts which may accumulate income or which distribute corpus, except that the taxation of distributions to recipients shall be determined under paragraph (d) of this section (without credit for taxes paid by the trust). The provisions of subpart E of part 1 of such subchapter J are not applicable with respect to a nonexempt charitable remainder trust.

(d) *Taxation of annual distributions to recipients*—(1) *Character of distributions.* Amounts described in paragraphs (a)(1) of §§ 1.664–2 and 1.664–3 shall be treated as having the following characteristics in the hands of the recipient:

(i) First, as ordinary income to the extent of the sum of the trust's ordinary income for the taxable year of the trust and its undistributed ordinary income for prior years. An ordinary loss for the current year may be used to reduce undistributed ordinary income for prior years and any excess may be carried forward indefinitely to reduce ordinary income for future years. For purposes of this section, the amount of current and prior years' income shall be computed without regard to section 172.

(ii) Second, as a short-term capital gain to the extent of the sum of the trust's net short-term capital gain for the taxable year and its undistributed net short-term capital gains for prior years. For purposes of this section, the term "net-short-term capital gain" means the excess of short-term capital gains (as defined in section 1222(1)) for the taxable year over the short-term capital losses (as defined in section 1222(2) for such year excluding amounts that would have been brought forward to such year under section 1212), less allocable expenses. Undistributed net short-term capital gains for the current and prior taxable years are computed on a cumulative net basis. Thus, a net short-term capital loss (as defined in section 1222(6) computed without regard to section 1211) for the current year may be used to reduce undistributed net short-term capital gains for prior years and any excess may be carried forward indefinitely to reduce net short-term capital gains for future years.

(iii) Third, as a long-term capital gain to the extent of the sum of the trust's net long-term capital gain for the taxable year and its undistributed net long-term capital gains for prior years. For purposes of this section, the term "net long-term capital gain" means the excess of long-term capital gains (as defined in section 1222(3)) for the taxable year over the long-term capital losses (as defined in section 1222(4) for such year excluding amounts that would have been brought forward to such year under section 1212), less allocable expenses. Undistributed net long-term capital gains for the current and prior taxable years are computed on a cumulative net basis. Thus, a net long-term capital loss (as defined in section 1222(8) computed without regard to section 1211) for the current year may be used to reduce undistributed net long-term capital gains for prior years and any excess may be carried forward indefinitely to reduce net long-term capital gains for future years.

(iv) Fourth, as other income (including income exempt under part III of subchapter B of chapter 1 of subtitle A of the Code) to the extent of the sum of the trust's other income for the taxable year and its undistributed other income for prior years. A loss in this category for the current year may be used to reduce undistributed income in such category for prior years and any excess may be carried forward indefinitely to reduce such income for future years.

(v) Finally, as a distribution of trust corpus.

Amounts treated as paid from one of the above categories shall be treated as consisting of the same proportion of each class of items included in such category as the total of the current and accumulated income of each class of items bears to the total of the current and accumulated income for that category. A loss in one of the above categories may not be used to reduce a gain in any other category. The provisions of subparts D and E of part 1 of subchapter J of chapter 1 of subtitle A of the Code are not applicable with respect to a charitable remainder trust (regardless of whether the trust is exempt).

(2) *Allocation of expenses.* Expenses of the trust for a taxable year of the trust which are deductible in determining taxable income that are reasonably related to one or more classes of items or corpus shall be so allocated. All other deductible expenses of the trust for such taxable year shall be allocated among the classes of items (excluding classes of items with net losses) on the basis of the gross income of such classes for such taxable year reduced by the expenes allocated thereto under the first sentence of this subparagraph. All taxes imposed by subtitle A of the Code for which the trust is liable because it has unrelated business taxable income and all taxes imposed by chapter 42 of the Code shall be allocated to corpus. Any expense that is not deductible in determining taxable income that is not allocable to category (iv) shall be allocated to corpus.

(3) *Allocation of income among recipients.* If there are two or more recipients, each will be treated as receiving his pro rata portion of the categories of income and corpus. The application of this rule may be illustrated by the following example:

Example. X transfers $40,000 to a charitable remainder annuity trust which is to pay $3,000 per year to X for a term of 5 years and $2,000 per year to Y for a term of 5 years. During the first year the trust has $3,000 of ordinary income, $500 of capital gain, and $500 of tax exempt income after allocation of all expenses. X is treated as receiving ordinary income of $1,800 ($3,000/$5,000 × $3,000), capital gain of $300 ($3,000/$5,000 × $500), tax exempt income of $300 ($3,000/$5,000 × $500), and corpus of $600 ($3,000/$5,000 × [$5,000 − $4,000]). Y is treated as receiving ordinary income of $1,200 ($2,000/$5,000 × $3,000), capital gain of $200 ($2,000/$5,000 × $500), tax exempt income of $200 ($2,000/$5,000 × $500), and corpus of $400 ($2,000/$5,000 × [$5,000 − $4,000]).

(4) *Year of inclusion.* To the extent required by subparagraph (1) of this paragraph, the recipient shall include in his gross income those amounts described in paragraphs (a)(1) of §§ 1.664–2 and 1.664–3 which are paid, credited, or required to be distributed in the taxable year or years of the trust ending within or with his taxable year. Notwithstanding the prior sentence, any distribution which is required under paragraphs (a)(1) of §§ 1.664–2 and 1.664–3 because of an incorrect valuation shall, to the extent required by paragraph (d)(1) of § 1.664–1, be included in the gross income of the recipient for his taxable year in which the amount is paid. A deduction is allowable to any recipient for any amounts repaid to the trust because of an incorrect valuation to the extent such amounts were includible in his gross income. See section 1341 and the regulations thereunder for rules relating to the computation of tax where taxpayer restores substantial amounts held under a claim of right.

(5) *Distributions in kind.* The amounts described in paragraphs (a)(1) of § 1.664–2 or § 1.664–3 may be paid in cash or in other property. In the case of a distribution made in other property, the fair market value of the property paid, credited, or required to be distributed shall be considered as an amount realized by the trust from the sale or other disposition of property. The basis of the property in the hands of the recipient is its fair market value at the time it was paid, credited, or required to be distributed. The application of these rules may be illustrated by the following example:

Example. On January 1, 1971, X created a charitable remainder annuity trust under which X is to receive $5,000 per year. During 1971, the trust earns $500 of ordinary income. On December 31, 1971, the trust distributed cash of $500 and property having a fair market value of $4,500 and a basis of $2,200. The trust is deemed to have realized a capital gain of $2,300. X shall treat the distribution of $5,000 as being ordinary income of $500, capital gain of $2,300 and trust corpus of $2,200. The basis of the property is $4,500 in the hands of X.

(e) *Short taxable years.* In the case of a taxable year which is for a period of less than 12 months, the governing instrument shall provide that:

(i) The amount which must be distributed under paragraph (a)(1) of § 1.664–2 and paragraph (a)(1)(i) of § 1.664–3 shall be a fraction of such amounts, of which the numerator is the number of days in the taxable year of the trust and of which the denominator is 365 (366 if February 29th is a day included in the numerator) and,

(ii) In the case of a charitable remainder unitrust in which no valuation date occurs before the end of the taxable year of the trust, the trust assets shall be valued on the last day of the taxable year of the trust.

However, the governing instrument may provide that payment of the amount described in paragraphs (a)(1) of § 1.664–2 and § 1.664–3 shall terminate with the regular periodical payment next preceding the termination of the period described in paragraphs (a)(5) of § 1.664–2 and § 1.664–3. The fact that the recipient may not receive such last payment shall not be taken in account for purposes of determining the present value of the remainder interest.

(f) *Effective date.* The provisions of this section are effective with respect to transfers in trust made after July 31, 1969. Consequently, any trust created prior to August 1, 1969, is not exempt under section 664(c) even if it otherwise satisfies the definition of a charitable remainder annuity trust or a charitable remainder unitrust. A trust created subsequent to July 31, 1969, and prior to January 1, 1971, which is not a charitable remainder trust at the date of its creation, may be treated as a charitable remainder trust from the date of its creation for all purposes, including the allowance of a deduction for transfers to charity, if the following requirements are met:

(1) At the time of the creation of the trust, the governing instrument provides that an organization described in section 170(c) receive an irrevocable remainder interest in such trust.

(2) The governing instrument of the trust is amended so that the trust will meet the definition of a charitable remainder annuity trust (as defined in § 1.664–2) or a charitable remainder unitrust (as defined in § 1.664–3) before January 1, 1971, or, if later, on or before the 30th day after the date on which any judicial proceedings begun before January 1, 1971, which are required to amend its governing instrument becomes final.

(3) (i) In the case where the amount of the distributions which would have been made by the trust if the amended provisions of such trust had been in effect from the time of creation of such trust exceeds the amount of the distribution made by the trust prior to its amendment, the trust distributes an amount equal to such excess to each recipient.

(ii) In the case where the amount of distributions made prior to the amendment of the trust exceeds the amount of the distributions which would have been made by such trust if the amended provisions of such trust had been in effect from the time of creation of such trust, such excess is either returned to the trust by each recipient or is deducted from the first distribution or distributions for each recipient subsequent to the amendment.

A deduction for a transfer to a charitable remainder trust shall not be allowed until the requirements of this paragraph are met and then only if the claim is filed within the period of limitations prescribed by section 6511(a).

§ 1.664–2 Charitable remainder annuity trust.

(a) *Definition.* A charitable remainder annuity trust is a trust which meets the following requirements:

(1) The governing instrument provides that the trust shall pay a sum certain not less often than annually. A sum certain is a stated dollar amount that is the same as to each recipient or as to the total amount payable every year of the period specified in subparagraph (5) of this paragraph. The stated dollar amount may be expressed as a fraction or a percentage of the initial net fair market value of the property irrevocably placed in trust as finally determined for Federal tax purposes if the governing instrument provides that in the case where such initial net fair market value is incorrectly determined in good faith, the trust shall pay to each recipient, in the case of an undervaluation, or be repaid by each recipient, in the case of an overvaluation, an amount equal to the difference between the amount which the trust should have paid if the correct value were used and the amount which the trust actually paid. Such payments or repayments must be made within a reasonable period after the final determination of such value. See paragraph (d)(4) of § 1.664–1 for special rules relating to the year of inclusion of such payments and the allowance of a deduction for such repayments. See paragraph (b) of this section for special rules relating to future contributions. The governing instrument shall provide that, except as provided in paragraph (e) of § 1.664–1 (relating to short taxable years), the amount described in this subparagraph shall be paid to a person or persons described in subparagraph (3) of this paragraph during every taxable year of the trust prior to the end of the period specified in subparagraph (5) of this paragraph (including the first and the last taxable years regardless of whether those taxable years are for a period of less than 12 months). For purposes of this subparagraph, a payment will be considered as made on the last day of a taxable year of the trust if the payment is made within 2½ months after the close of the taxable year, or within such longer period as is shown to the satisfaction of the Commissioner or his delegate to be reasonable.

(2) Except as provided in paragraph (e) of § 1.664–1 (relating to short taxable years), for the entire period described in paragraph (5) of this paragraph, the total amounts payable under subparagraph (1) of this paragraph shall not be less than 5 percent of the initial net fair market value of the property placed irrevocably in trust as finally determined for Federal tax purposes. In the case where the grantor (including a testator) of a trust underestimates in good faith the initial net fair market value of the property irrevocably placed in trust as finally determined for Federal tax purposes and specifies a fixed dollar amount for the annuity which, based upon such estimated value, is 5 or more percent of such estimated value but which is less than 5 percent of the initial net fair market value of the property placed in trust as finally determined for Federal tax purposes, the trust will be considered to have met the 5 percent requirement if the grantor or executor consents to accept such estimated value for purposes of determining the appropriate charitable contributions deduction.

(3) The amount described in subparagraph (1) of this paragraph shall be paid to a named person or persons, at least one of which is not an organization described in section 170(c). A named person or persons shall include members of a named class. If the amount described in subparagraph (1) of this paragraph is to be paid to an individual or individuals, all such individuals must be living at the time of the creation of the trust. A trust is not a charitable remainder annuity trust if any person has the power to alter the amount to be paid to any named person other than an organization described in section 170(c) if such power would cause any person to be treated as the owner of the trust, or any portion thereof, if subpart E of part 1 of subchapter J of subtitle A of the Code were applicable to such trust.

(4) No amount other than the amount described in subparagraph (1) of this paragraph may be paid to or for the use of any person other than an organization described in section 170(c). An amount is not paid to or for the use of any person other than an organization described in section 170(c) if the amount is transferred for full and adequate consideration. Payment of encumbrances upon the property placed in trust is not payment to or for the use of any person other than an organization described in section 170(c). The trust may not be subject to a power to invade, alter, amend, or revoke for the beneficial use of a person other than an organization described in section 170(c). The governing instrument may provide that specified amounts shall be paid (or may be paid in the discretion of the trustee) to an organization described in section 170(c).

(5) The period for which amounts described in subparagraph (1) of this paragraph are paid shall be for either the life or lives of a named individual or individuals or for a term of years not to exceed 20 years. Only an individual or an organization described in section 170(c) may receive an amount for the life of an individual. If an individual receives an amount for life, it must be for only his life. The length of the term for years shall be ascertainable with certainty at the time of the creation of the trust, except that the term may be terminated by the death of the recipient. Nevertheless, the 5 percent requirement described in subparagraph (2) of this paragraph must be met until the termination of all of the payments described in subparagraph (1) of this paragraph. For example, the following provisions would satisfy the above rules: an amount to A and B for their joint lives and then to the survivor; an amount to A for life or for a term of years, whichever is longer (or shorter), if the length of the term of years is not longer than 20 years; an amount to A for a term of years not longer than 20 years and then to B for life; an amount to A for his life and an amount to B for his life if the amount given to each individual is not less than 5 percent of the initial net fair market value of the property placed in trust.

(6) At the end of the period specified in subparagraph (5) of this paragraph the entire corpus of the trust shall be irrevocably transferred, in whole or in part, to or for the use of an organization or organizations described in section 170(c) or retained, in whole or in part, for such use. See section 4947(a)(1) if the corpus is to be retained for a use described in section 170(c). The taxable year of the trust shall terminate upon the end of the period specified in subparagraph (5) of this paragraph. See paragraph (e) of § 1.664–1 for rules relating to short taxable years. Where interests in such corpus are given to more than one organization described in section 170(c) such interests may be enjoyed by them either concurrently or successively. The governing instrument shall provide that, in the event that an organization to or for the use of which the trust corpus is to be transferred or for the use of which the trust corpus is to be retained is not an organization described in section 170(c) at the time when any amount is to be irrevocably transferred to such organization, such amount shall be transferred to or for the use of an organization or organizations which are described in section 170(c) or retained for such use.

(b) *Additional contributions.* The governing instrument shall provide that no future contributions may be made to the charitable remainder annuity trust after the initial contribution.

(c) *Calculation of the fair market value of the remainder interest of a charitable remainder annuity trust.* The deduction allowed by section 170 is limited to the fair market value of the remainder interest of a charitable remainder annuity trust regardless of whether an organization described in section 170(c) also receives a portion of the annuity. For disallowance of a deduction for transfers to charity in the case of a transfer of tangible personal property to a charitable remainder annuity trust, see section 170(a)(3). For purposes of sections 170, 2055, 2106, and 2522, the fair market value of the remainder interest of a charitable remainder annuity trust (as defined in this section) is the net fair market value (as of the appropriate valuation date) of the property placed in trust less the present value of the annuity. The present value of an annuity is computed under § 20.2031–10 of the Estate Tax Regulations regardless of when the trust was created. Any claim for deduction on any return for the value of a remainder interest in a charitable remainder annuity trust must be supported by a full statement attached to the return showing the computation of the present value of such interest.

§ 1.664–3 Charitable remainder unitrust.

(a) *Definition.* A charitable remainder unitrust is a trust which meets the following requirements:

(1) (i) The governing instrument provides that the trust shall pay not less often than annually a fixed percentage of the net fair market value of the trust assets determined annually.

(ii) Notwithstanding the provisions of subdivision (i), the governing instrument may provide that the trust shall pay for any year either the amount described in subdivision (*a*) or the total of the amounts described in subdivisions (*a*) and (*b*).

(*a*) The amount of trust income (as determined under section 643(b) and the regulations thereunder), to the extent that such amount is not more than the amount required to be distributed under subdivision (i).

(*b*) An amount of the trust income which is in excess of the amount required to be distributed under subdivision (i), to the extent that (by reason of subdivision (*a*)) the aggregate of the amounts paid in prior years was less than the aggregate of such required amounts.

The fixed percentage may be expressed either as a fraction or as a percentage. A percentage is fixed if the percentage is the same as to each recipient or as to the total percentage payable every year of the period specified in subparagraph (5) of this paragraph. The governing instrument shall provide that in the case where the net fair market value of the trust assets is incorrectly determined, the trust shall pay to each recipient, in the case of an undervaluation, or be repaid by each recipient, in the case of an overvaluation, an amount equal to the difference between the amount which the trust should have paid if the correct value were used and the amount which the trust actually paid within a reasonable period after the final determination of such value. A percentage may be fixed even though the trust instrument permits future contributions of property to the trust. See paragraph (b) of this section for special rules relating to future contributions. In computing the net fair market value of the trust assets there shall be taken into account all accrued assets and accrued liabilities. The net fair market value of the trust assets may be determined on any one date during the taxable year of the trust or by taking the average of valuations made on more than one date during the taxable year of the trust as long as the same valuation date or dates and methods are used each year. The amount described in subdivision (i) of this subparagraph which must be paid each year must be based upon the valuation for such year. The governing instrument shall provide that, except as provided in paragraph (e) of § 1.664–1 (relating to short taxable years), the amount described in this subparagraph shall be paid to a person or persons described in subparagraph (3) of this paragraph during every taxable year of the trust prior to the end of the period specified in subparagraph (5) of this paragraph (including the first and the last taxable years regardless of whether those taxable years are for a period of less than 12 months). For purposes of this subparagraph, a payment will be considered made on the last day of a taxable year of the trust if the payment is made within 2½ months after the close of the taxable year, or within such longer period as is shown

to the satisfaction of the Commissioner or his delegate to be reasonable.

(2) The fixed percentage described in subparagraph (1)(i) of this paragraph with respect to all beneficiaries taken together shall be not less than 5 percent for the entire period specified in paragraph (5) of this paragraph.

(3) The amount described in subparagraph (1) of this paragraph shall be paid to a named person or persons, at least one of which is not an organization described in section 170(c). A named person or persons shall include members of a named class. If the amount described in subparagraph (1) of this paragraph is to be paid to an individual or individuals, all such individuals must be living at the time of the creation of the trust. A trust is not a charitable remainder unitrust if any person has the power to alter the amount to be paid to any named person other than an organization described in section 170(c) if such power would cause any person to be treated as the owner of the trust, or any portion thereof, if subpart E of part 1 of subchapter J of subtitle A of the Code were applicable to such trust.

(4) No amount other than the amount described in subparagraph (1) of this paragraph may be paid to or for the use of any person other than an organization described in section 170(c). An amount is not paid to or for the use of any person other than an organization described in section 170(c) if the amount is transferred for full and adequate consideration. Payment of encumbrances upon the property placed in trust is not payment to or for the use of any person other than an organization described in section 170(c). The trust may not be subject to a power to invade, alter, amend, or revoke for the beneficial use of a person other than an organization described in section 170(c). The governing instrument may provide that specified amounts shall be paid (or may be paid in the discretion of the trustee) to an organization described in section 170(c).

(5) The period for which amounts described in subparagraph (1) of this paragraph are paid shall be for either the life or lives of a named individual or individuals or for a term of years not to exceed 20 years. Only an individual or an organization described in section 170(c) may receive an amount for the life or an individual. If an individual receives an amount for life, it must be for only his life. The length of the term for years shall be ascertainable with certainty at the time of the creation of the trust, except that the term may be terminated by the death of the recipient. Nevertheless, the 5 percent test described in subparagraph (2) of this paragraph must be met until the termination of all of the payments described in subparagraph (1) of this paragraph. For example, the following provisions would satisfy the above rules: A fixed percentage to A and B for their joint lives and then to the survivor; a fixed percentage to A for life or for term of years, whichever is longer (or shorter), if the length of the term of years is not longer than 20 years; a fixed percentage to A for a term of years not longer than 20 years and then to B for life; a fixed percentage to A for his life and a fixed percentage to B for his life if the percentage given to each individual is not less than 5 percent.

(6) At the end of the period specified in subparagraph (5) of this paragraph the entire corpus of the trust shall be irrevocably transferred, in whole or in part, to or for the use of an organization or organizations described in section 170(c) or retained, in whole or in part, for such use. See section 4947(a)(1) if the corpus is to be retained for a use described in section 170(c). The taxable year of the trust shall terminate upon the end of the period specified in subparagraph (5) of this paragraph. See paragraph (e) of § 1.664–1 for rules relating to short taxable years. Where interests in such corpus are given to more than one organization described in section 170(c) such interests may be enjoyed by them either concurrently or successively. The governing instrument shall provide that, in the event that an organization to or for the use of which the trust corpus is to be transferred or for the use of which the trust corpus is to be retained is not an organization described in section 170(c) at the time when any amount is to be irrevocably transferred to such organization, such amount shall be transferred to or for the use of an organization or organizations which are described in section 170(c) or retained for such use.

(b) *Additional contributions.* In the case of additional contributions to the trust, the governing instrument shall provide that for purposes of the taxable year of the trust in which the additional contribution is made that:

(1) In the case where there is no valuation date after the time of the contribution, the additional property shall be valued at the time of contribution, and

(2) The amount described in paragraph (a)(1)(i) shall be computed by multiplying the fixed percentage by the sum of (a) the net fair market value of the trust's assets (excluding the additional property as of the valuation date including any earned income from and any appreciation on such property) and (b) that proportion of the value of the additional property (that was excluded under subdivision (a) of this subparagraph) which the number of days (including the day of transfer) remaining in the taxable year of the trust bears to the total number of days in that taxable year of the trust.

(c) *Calculation of the fair market value of the remainder interest of a charitable remainder unitrust.* The deduction allowed by section 170 for transfers to charity is limited to the fair market value of the remainder interest of a charitable remainder unitrust regardless of whether an organization described in section 170(c) also receives a portion of the amount described in § 1.664–3(a)(1). For disallowance of a deduction for transfers to charity in the case of a transfer of tangible personal property to a charitable remainder unitrust, see section 170(a)(3). See § 1.664–4 for rules relating to the calculation of the fair market value of the remainder interest of a charitable remainder unitrust.

§ 1.664–4 Calculation of the fair market value of the remainder interest in a charitable remainder unitrust.

(a) *General rule.* (1) For the purposes of section 170, 2055, 2106, or 2522, the fair market value of a remainder interest in a charitable remainder unitrust (as defined in § 1.664–3) is its present value determined under this section. The present value determined under this section shall be computed on the basis of (i) the life table for total males (as to each male life involved) and the life table for total females (as to each female life involved) contained in "United States Life Tables: 1959–61," published by the U.S. Department of Health, Education, and Welfare, Public Health Service, (ii) interest at the rate of 6 percent a year, compounded annually, and (iii) the assumption that the amount described in paragraph (a)(1)(i) of § 1.664–3 shall be distributed in accordance with the payout sequence prescribed in the governing instrument. If the governing instrument does not prescribe when the distribution shall be made during the taxable year of the trust, for purposes of this section, the distribution shall be considered payable on the first day of the taxable year of the trust.

(2) The method which applies these principles to certain charitable remainder unitrusts is set forth in paragraph (b) of this section.

(3) If the computation of the value of the remainder interest of a charitable remainder unitrust requires the use of a factor which is not provided in paragraph (b) of this section, the Commissioner may, if conditions permit, supply the factor upon request. The request must be accompanied by a statement of the date of birth and sex of each individual the duration of whose life may affect the value of the remainder interest and by copies of the relevant instruments. If the Commissioner furnishes the factor, a copy of the letter supplying the factor shall be attached to the tax return in which the deduction is claimed. If the Commissioner does not furnish the factor, the taxpayer must furnish a factor computed in accordance with the principles set forth in subparagraph (1) of this paragraph.

(4) Any claim for deduction on any return for the value of a remainder interest in a charitable remainder unitrust must be supported by a full statement attached to the return showing the computation of the present value of such interest.

(b) *Valuation of charitable remainder unitrusts having certain payout sequences.* (1) The present value determined under this section of a remainder interest which is dependent on a term of years or the termination of the life of one individual shall be determined under this paragraph provided that the amount of the payout as of any payout date during the first taxable year of the trust is not larger than the amount which the trust could distribute on such date under paragraph (e)(i) of § 1.664–1 if the taxable year of the trust were to end on such date. The present value of the remainder interest in such trust shall be determined by computing the adjusted payout

rate (as defined in subparagraph (2) of this paragraph) and following the procedure outlined in subparagraph (3) or (4) of this paragraph, whichever is applicable. The present value of a remainder interest which is dependent on a term of years is computed under subparagraph (3) of this paragraph. The present value of a remainder interest which is dependent on the termination of the life of one individual is computed under subparagraph (4) of this paragraph.

(2) *Adjusted payout rate.* The adjusted payout rate is determined by multiplying the fixed percentage described in paragraph (a)(1)(i) of § 1.664–3 by the figure in column (2) of Table F which describes the payout sequence of the trust opposite the number in column (1) of Table F which corresponds to the number of months by which the valuation date precedes the first payout date. If the governing instrument does not prescribe when the distribution shall be made during the taxable year of the trust, see paragraph (a)(3) of this section. In the case of a trust having a payout sequence for which no figures have been provided by Table F and in the case of a trust which determines the fair market value of the trust assets by taking the average of valuations on more than one date during the taxable year, see paragraph (a)(3) of this section.

(3) *Period is a term of years.* If the period described in paragraph (a)(5) of § 1.664–3 is a term of years, the factor which is used in determining the present value of the remainder interest is the factor under the appropriate adjusted payout rate in column (2) of Table D in subparagraph (5) of this paragraph opposite the number in column (1) of Table D which corresponds to the number of years in the term. If the adjusted payout rate is an amount which is between adjusted payout rates for which factors are provided in Table D, a linear interpolation must be made. The present value of the remainder interest is determined by multiplying, by the factor determined under this subparagraph, the net fair market value (as of the appropriate valuation date) of the property placed in trust. If the adjusted payout rate is greater than 9 percent, see paragraph (a)(3) of this section. The application of this paragraph may be illustrated by the following example:

Example. D transfers $100,000 to a charitable remainder unitrust on January 1, 1970. The trust instrument requires that the trust pay to D seminannually (on June 30 and December 31) 5 percent of the fair market value as of June 30th for a term of 15 years. The adjusted payout rate is 4.928 percent (5% × 0.985643). The present value of the remainder interest is $46,863.60 computed as follows:

Factor at 4.8% for 15 years	0.478139
Factor at 5.0% for 15 years	.463291
Difference	.014848

$$\frac{4.928\% - 4.8\%}{0.2\%} = \frac{X}{0.014848}$$

X = 0.009503

Factor at 4.8% for 15 years	.478139
Less: X	.009503
Interpolated factor	.468636

Present value of remainder interest = $100,000 × 0.46836 = $46,863.60.

(4) *Period is the life of one individual.* If the period described in paragraph (a)(5) of § 1.664–3 is the life of one individual, the factor which is used in determining the present value of the remainder interest is the factor under the appropriate adjusted payout rate in column (2) of Table E(1) or E(2) in paragraph (5) of this paragraph opposite the number in column (1) which corresponds to the age of the individual whose life measures the period. Table E(1) is to be used when the individual upon whose life the remainder interest is based is a male and Table E(2) is to be used when such individual is a female whose age is less than 95 years. In the case of a female whose age is more than 94 years, Table E(1) is to be used. For the purposes of the computations described in this paragraph, the age of an individual is to be taken as the age of that individual at his nearest birthday. If the adjusted payout rate is an amount which is between adjusted payout rates for which factors are provided in Table E(1) or E(2), a linear interpolation must be made. The present value of the remainder interest is determined by multiplying, by the factor determined under this subparagraph, the net fair market value (as of the appropriate valuation date) of the property placed in trust. If the adjusted payout rate is greater than 9 percent, see paragraph (a)(3) of this section. The application of this paragraph may be illustrated by the following example:

Example. D, a male who will be 50 years old on April 15, 1970, transfers $100,000 to a charitable remainder unitrust on January 1, 1970. The trust instrument requires that the trust pay to D on the end of the taxable year of the trust 5 percent of the fair market value as of the beginning of the taxable year of the trust. The adjusted payout rate is 4.717% (5% × .943396). The present value of the remainder interest is $37,816 computed as follows:

Factor at 4.6% for male aged 50	0.38623
Factor at 4.8% for male aged 50	.37244
Difference	.01379

$$\frac{4.717\% - 4.6\%}{0.2\%} = \frac{X}{0.01379}$$

X = 0.00807

Factor at 4.6% for male aged 50	.38623
Less: X	.00807
Interpolated factor	.37816

Present value of remainder interest = $100,000 × 0.37816 = $37,816.

(5) The following tables shall be used in the application of the provisions of this section:

TABLE D

TABLE SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST POSTPONED FOR A TERM OF YEARS IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN

1	2				
Years	Adjusted payout rate				
	4.6%	4.8%	5.0%	5.2%	5.4%
1	.954000	.952000	.950000	.948000	.946000
2	.910116	.906304	.902500	.898704	.894916
3	.868251	.862801	.857375	.851971	.846591
4	.828311	.821387	.814506	.807669	.800875
5	.790209	.781960	.773781	.765670	.757627
6	.753859	.744426	.735092	.725855	.716716
7	.719182	.708694	.698337	.688111	.678013
8	.686099	.674677	.663420	.652329	.641400
9	.654539	.642292	.630249	.618408	.606765
10	.624430	.611462	.598737	.586251	.573999
11	.595706	.582112	.568800	.555766	.543003
12	.568304	.554170	.540360	.526866	.513681
13	.542162	.527570	.513342	.499469	.485942
14	.517222	.502247	.487675	.473496	.459701
15	.493430	.478139	.463291	.448875	.434878
16	.470732	.455188	.440127	.425533	.411394
17	.449079	.433339	.418120	.403405	.389179
18	.428421	.412539	.397214	.382428	.368163
19	.408714	.392737	.377354	.362542	.348282
20	.389913	.373886	.358486	.343690	.329475

TABLE D

TABLE SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST POSTPONED FOR A TERM OF YEARS IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN.

1	2				
Years	Adjusted payout rate				
	5.6%	5.8%	6.0%	6.2%	6.4%
1	.944000	.942000	.940000	.938000	.936000
2	.891136	.887364	.883600	.879844	.876096
3	.841232	.835897	.830584	.825294	.820026
4	.794123	.787415	.780749	.774125	.767544
5	.749652	.741745	.733904	.726130	.718421
6	.707672	.698724	.689870	.681110	.672442
7	.668042	.658198	.648478	.638881	.629406
8	.630632	.620022	.609569	.599270	.589124
9	.595317	.584061	.572995	.562115	.551420
10	.561979	.550185	.538615	.527264	.516129
11	.530508	.518275	.506298	.494574	.483097
12	.500800	.488215	.475920	.463910	.452179
13	.472755	.459898	.447365	.435148	.423239
14	.446281	.433224	.420523	.408169	.396152
15	.421289	.408097	.395292	.382862	.370798
16	.397697	.384427	.371574	.359125	.347067
17	.375426	.362131	.349280	.336859	.324855
18	.354402	.341127	.328323	.315974	.304064
19	.334555	.321342	.308624	.296383	.284604
20	.315820	.302704	.290106	.278008	.266389

TABLE D

TABLE SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST POSTPONED FOR A TERM OF YEARS IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN

1	2				
Years	Adjusted payout rate				
	6.6%	6.8%	7.0%	7.2%	7.4%
1	.934000	.932000	.930000	.928000	.926000
2	.872356	.868624	.864900	.861184	.857476
3	.814781	.809558	.804357	.799179	.794023
4	.761005	.754508	.748052	.741638	.735265
5	.710779	.703201	.695688	.688240	.680855
6	.663867	.655383	.646990	.638687	.630472
7	.620052	.610817	.601701	.592701	.583817
8	.579129	.569282	.559582	.550027	.540615
9	.540906	.530571	.520411	.510425	.500609
10	.505206	.494402	.483982	.473674	.463564
11	.471863	.460866	.450104	.439570	.429260
12	.440720	.429527	.418596	.407921	.397495
13	.411632	.400320	.389295	.378550	.368081
14	.384465	.373098	.362044	.351295	.340843
15	.359090	.347727	.336701	.326002	.315620
16	.335390	.324082	.313132	.302529	.292264
17	.313254	.302044	.291213	.280747	.270637
18	.292579	.281505	.270828	.260533	.250610
19	.273269	.262363	.251870	.241775	.232065
20	.255233	.244522	.234239	.224367	.214892

TABLE D

TABLE SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST POSTPONED FOR A TERM OF YEARS IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN

1	2				
	Adjusted payout rate				
Year	7.6%	7.8%	8.0%	8.2%	8.4%
1	.924000	.922000	.920000	.918000	.916000
2	.853776	.850084	.846400	.842724	.839056
3	.788889	.783777	.778688	.773621	.768575
4	.728933	.722643	.716393	.710184	.704015
5	.673535	.666277	.659082	.651949	.644878
6	.622346	.614307	.606355	.598489	.590708
7	.575048	.566391	.557847	.549413	.541089
8	.531344	.522213	.513219	.504361	.495637
9	.490962	.481480	.472161	.463003	.454004
10	.453649	.443925	.434388	.425037	.415867
11	.419171	.409298	.399637	.390184	.380934
12	.387314	.377373	.367666	.358189	.348936
13	.357879	.347938	.338253	.328817	.319625
14	.330680	.320799	.311193	.301854	.292777
15	.305548	.295777	.286297	.277102	.268184
16	.282326	.272706	.263394	.254380	.245656
17	.260870	.251435	.242322	.233521	.225021
18	.241044	.231823	.222936	.214372	.206119
19	.222724	.213741	.205101	.196794	.188805
20	.205797	.197069	.188693	.180657	.172946

TABLE D

TABLE SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST POSTPONED FOR A TERM OF YEARS IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN

1	2		
	Adjusted payout rate		
Year	8.6%	8.8%	9.0%
1	.914000	.912000	.910000
2	.835396	.831744	.828100
3	.763552	.758551	.753571
4	.697886	.691798	.68575
5	.637868	.630920	.624032
6	.583012	.575399	.567869
7	.532873	.524764	.516761
8	.487046	.478585	.470253
9	.445160	.436469	.427930
10	.406876	.398060	.389416
11	.371885	.363031	.354369
12	.339902	.331084	.322475
13	.310671	.301949	.293453
14	.283953	.275377	.267042
15	.259533	.251144	.243008
16	.237213	.229043	.221137
17	.216813	.208887	.201235
18	.198167	.190505	.183124
19	.181125	.173741	.166643
20	.165548	.158452	.151645

TABLE E (1)

TABLE, SINGLE LIFE, MALE, SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN.

1	2				
	Adjusted payout rate				
Age	4.6%	4.8%	5.0%	5.2%	5.4%
0	.08579	.08028	.07541	.07110	.06728
1	.06190	.05610	.05097	.04642	.04240
2	.06314	.05717	.05188	.04719	.04303
3	.06509	.05895	.05350	.04866	.04436
4	.06738	.06106	.05545	.05046	.04602
5	.06993	.06344	.05766	.05252	.04793
6	.07268	.06601	.06006	.05476	.05003
7	.07561	.06876	.06265	.05718	.05230
8	.07874	.07171	.06542	.05979	.05475
9	.08206	.07484	.06837	.06258	.05738
10	.08558	.07817	.07153	.06556	.06020
11	.08930	.08170	.07488	.06874	.06322
12	.09319	.08540	.07839	.07208	.06640
13	.09722	.08924	.08205	.07556	.06971
14	.10133	.09316	.08578	.07912	.07309
15	.10550	.09713	.08957	.08272	.07652
16	.10970	.10113	.09338	.08635	.07997
17	.11396	.10519	.09724	.09002	.08346
18	.11826	.10929	.10114	.09373	.08699
19	.12267	.11349	.10513	.09753	.09060
20	.12718	.11779	.10923	.10143	.09431
21	.13180	.12220	.11344	.10544	.09813

TABLE E (1)—Continued

1	2				
	Adjusted payout rate				
Age	4.6%	4.8%	5.0%	5.2%	5.4%
22	.13656	.12674	.11777	.10957	.10206
23	.14150	.13147	.12229	.11388	.10617
24	.14668	.13643	.12704	.11842	.11051
25	.15217	.14171	.13210	.12327	.11516
26	.15800	.14732	.13751	.12847	.12015
27	.16416	.15327	.14325	.13400	.12547
28	.17064	.15955	.14932	.13987	.13113
29	.17745	.16616	.15571	.14606	.13712
30	.18454	.17305	.16240	.15254	.14341
31	.19193	.18024	.16940	.15934	.15000
32	.19963	.18775	.17671	.16645	.15692
33	.20763	.19556	.18433	.17388	.16415
34	.21595	.20369	.19228	.18164	.17172
35	.22457	.21215	.20056	.18974	.17963
36	.23350	.22091	.20915	.19315	.18786
37	.24274	.22999	.21807	.20690	.19643
38	.25227	.23938	.22729	.21596	.20533
39	.26209	.24907	.23683	.22535	.21455
40	.27219	.25903	.24666	.23502	.22407
41	.28254	.26927	.25677	.24499	.23390
42	.29315	.27977	.26715	.25525	.24402
43	.30401	.29054	.27781	.26579	.25443
44	.31512	.30156	.28874	.27661	.26513
45	.32647	.31284	.29993	.28770	.27611
46	.33806	.32437	.31139	.29907	.28738
47	.34988	.33615	.32310	.31071	.29894
48	.36188	.34811	.33502	.32257	.31073
49	.37401	.36023	.34710	.33460	.32269
50	.38623	.37244	.35929	.34675	.33479
51	.39851	.38473	.37156	.35899	.34699
52	.41086	.39709	.38392	.37134	.35930
53	.42329	.40955	.39639	.38380	.37174
54	.43586	.42216	.40903	.39644	.38437

TABLE E (1)

TABLE, SINGLE LIFE, MALE, SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN.

1	2				
	Adjusted payout rate				
Age	5.6%	5.8%	6.0%	6.2%	6.4%
0	.06390	.06089	.05821	.05583	.05369
1	.03883	.03565	.03282	.03031	.02806
2	.03933	.03604	.03311	.03049	.02815
3	.04053	.03712	.03408	.03136	.02893
4	.04206	.03853	.03537	.03254	.03001
5	.04383	.04017	.03690	.03396	.03133
6	.04579	.04200	.03860	.03556	.03282
7	.04792	.04400	.04047	.03731	.03446
8	.05022	.04616	.04251	.03923	.03627
9	.05271	.04851	.04473	.04132	.03824
10	.05538	.05104	.04712	.04359	.04039
11	.05824	.05375	.04970	.04604	.04272
12	.06126	.05663	.05244	.04864	.04520
13	.06442	.05963	.05530	.05137	.04780
14	.06764	.06270	.05822	.05415	.05046
15	.07090	.06581	.06118	.05697	.05314
16	.07418	.06893	.06415	.05979	.05583
17	.07750	.07208	.06714	.06264	.05854
18	.08086	.07526	.07017	.06551	.06126
19	.08429	.07853	.07326	.06845	.06405
20	.08781	.08187	.07644	.07147	.06692
21	.09144	.08532	.07972	.07458	.06987
22	.09518	.08887	.08309	.07779	.07291
23	.09909	.09260	.08664	.08116	.07611
24	.10324	.09655	.09040	.08474	.07953
25	.10769	.10081	.09447	.08863	.08324
26	.11248	.10540	.09888	.09285	.08728
27	.11760	.11033	.10362	.09740	.09165
28	.12306	.11559	.10868	.10228	.09635
29	.12885	.12119	.11408	.10749	.10137
30	.13493	.12707	.11977	.11299	.10668
31	.14133	.13327	.12577	.11880	.11231
32	.14805	.13979	.13210	.12494	.11826
33	.15509	.14664	.13876	.13140	.12453
34	.16247	.15382	.14575	.13821	.13115
35	.17018	.16135	.15309	.14536	.13812
36	.17823	.16922	.16077	.15285	.14543
37	.18662	.17743	.16880	.16070	.15309
38	.19535	.18597	.17717	.16889	.16110
39	.20440	.19486	.18588	.17742	.16946
40	.21377	.20406	.19491	.18628	.17815
41	.22344	.21357	.20426	.19547	.18717
42	.23341	.22339	.21392	.20498	.19651
43	.24368	.23352	.22391	.21480	.20618
44	.25425	.24396	.23420	.22495	.21618
45	.26512	.25470	.24481	.23543	.22651
46	.27629	.26575	.25574	.24622	.23718
47	.28775	.27711	.26698	.25734	.24817
48	.29945	.28871	.27848	.26873	.25944
49	.31134	.30052	.29019	.28034	.27094
50	.32337	.31247	.30206	.29212	.28261
51	.33552	.32455	.31406	.30403	.29444
52	.34778	.33676	.32620	.31610	.30642
53	.36019	.34912	.33851	.32834	.31858
54	.37280	.36169	.35104	.34081	.33099

TABLE E (1)

TABLE, SINGLE LIFE, MALE, SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN

1	2				
	Adjusted payout rate				
Age	6.6%	6.8%	7.0%	7.2%	7.4%
0	.05179	.05008	.04854	.04716	.04592
1	.02605	.02425	.02263	.02118	.01987
2	.02606	.02418	.02250	.02098	.01961
3	.02674	.02479	.02303	.02144	.02001
4	.02774	.02570	.02386	.02220	.02071
5	.02896	.02683	.02491	.02318	.02161
6	.03035	.02813	.02613	.02432	.02268
7	.03189	.02958	.02749	.02559	.02388
8	.03360	.03118	.02900	.02702	.02523
9	.03546	.03295	.03067	.02861	.02673
10	.03750	.03489	.03251	.03036	.02840
11	.03972	.03700	.03452	.03227	.03023
12	.04208	.03925	.03667	.03433	.03219
13	.04456	.04162	.03894	.03649	.03426
14	.04710	.04404	.04125	.03870	.03637
15	.04966	.04648	.04358	.04093	.03850
16	.05221	.04891	.04590	.04314	.04061
17	.05479	.05136	.04823	.04536	.04272
18	.05738	.05382	.05056	.04757	.04483
19	.06003	.05633	.05295	.04984	.04698
20	.06274	.05891	.05539	.05216	.04918
21	.06554	.06157	.05791	.05455	.05145
22	.06843	.06430	.06051	.05701	.05378
23	.07147	.06719	.06325	.05961	.05625
24	.07472	.07028	.06619	.06240	.05890
25	.07826	.07366	.06941	.06548	.06183
26	.08213	.07737	.07296	.06887	.06508
27	.08633	.08139	.07682	.07257	.06863
28	.09085	.08574	.08100	.07659	.07249
29	.09569	.09041	.08550	.08093	.07667
30	.10082	.09536	.09028	.08554	.08113
31	.10626	.10062	.09537	.09046	.08588
32	.11202	.10621	.10077	.09570	.09095
33	.11812	.11212	.10651	.10126	.09634
34	.12455	.11837	.11258	.10716	.10207
35	.13133	.12497	.11900	.11340	.10814
36	.13846	.13192	.12577	.11999	.11456
37	.14594	.13922	.13289	.12694	.12134
38	.15377	.14687	.14037	.13425	.12847
39	.16195	.15488	.14821	.14191	.13596
40	.17047	.16322	.15638	.14991	.14380
41	.17932	.17190	.16489	.15825	.15197
42	.18850	.18092	.17374	.16694	.16049
43	.19802	.19027	.18293	.17597	.16936
44	.20786	.19997	.19247	.18535	.17858
45	.21805	.21000	.20235	.19508	.18815
46	.22857	.22038	.21259	.20516	.19809
47	.23943	.23111	.22318	.21561	.20840
48	.25058	.24213	.23406	.22636	.21901
49	.26196	.25339	.24520	.23737	.22989
50	.27353	.26485	.25654	.24859	.24098
51	.28525	.27646	.26804	.25998	.25225
52	.29714	.28825	.27973	.27155	.26371
53	.30922	.30024	.29162	.28334	.27539
54	.32156	.31249	.30379	.29542	.28737

TABLE E (1)

TABLE, SINGLE LIFE, MALE, SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN

1	2				
	Adjusted payout rate				
Age	7.6%	7.8%	8.0%	8.2%	8.4%
0	.04480	.04378	.04285	.04201	.04125
1	.01870	.01763	.01667	.01580	.01500
2	.01838	.01727	.01626	.01534	.01451
3	.01872	.01755	.01649	.01553	.01466
4	.01935	.01813	.01702	.01601	.01509
5	.02020	.01891	.01774	.01668	.01571
6	.02119	.01984	.01862	.01750	.16648
7	.02232	.02091	.01962	.01845	.01738
8	.02360	.02212	.02077	.01953	.01841
9	.02503	.02347	.02205	.02076	.01958
10	.02661	.02498	.02350	.02214	.02089
11	.02836	.02865	.02510	.02367	.02236
12	.03024	.02846	.02682	.02533	.02396
13	.03222	.03036	.02865	.02708	.02564
14	.03425	.03230	.03051	.02887	.02736
15	.03628	.03424	.03238	.03066	.02908
16	.03829	.03617	.03421	.03242	.03076
17	.04031	.03809	.03605	.03417	.03243
18	.04231	.03999	.03786	.03589	.03408
19	.04435	.04193	.03970	.03765	.03575
20	.04644	.04392	.04159	.03943	.03744
21	.04859	.04595	.04352	.04126	.03918
22	.05089	.04804	.04550	.04314	.04096
23	.05314	.05026	.04760	.04514	.04285
24	.05566	.05266	.04988	.04730	.04490

TABLE E (1)—Continued

1 Age	2 Adjusted payout rate 7.6%	7.8%	8.0%	8.2%	8.4%
25	.05846	.05533	.05242	.04972	.04721
26	.06156	.05829	.05525	.05243	.04980
27	.06497	.06156	.05839	.05544	.05269
28	.06868	.06513	.06182	.05874	.05586
29	.07271	.06901	.06556	.06234	.05933
30	.07700	.07316	.06956	.06620	.06305
31	.08160	.07760	.07385	.07035	.06706
32	.08651	.08235	.07845	.07480	.07137
33	.09173	.08741	.08336	.07956	.07599
34	.09730	.09281	.08860	.08465	.08093
35	.10320	.09856	.09419	.09008	.08620
36	.10945	.10464	.10011	.09584	.09182
37	.11606	.11108	.10639	.10196	.09778
38	.12302	.11788	.11303	.10844	.10410
39	.13035	.12504	.12002	.11527	.11078
40	.13801	.13254	.12735	.12245	.11779
41	.14602	.14038	.13504	.12997	.12516
42	.15438	.14857	.14307	.13784	.13287
43	.16308	.15712	.15145	.14607	.14094
44	.17214	.16602	.16020	.15466	.14938
45	.18156	.17529	.16931	.16361	.15818
46	.19135	.18493	.17880	.17295	.16737
47	.20151	.19494	.18866	.18267	.17694
48	.21199	.20527	.19886	.19272	.18685
49	.22273	.21588	.20933	.20305	.19704
50	.23369	.22671	.22003	.21362	.20747
51	.24484	.23773	.23092	.22438	.21810
52	.25618	.24896	.24202	.23536	.22895
53	.26776	.26042	.25336	.24658	.24005
54	.27963	.27218	.26502	.25812	.25148

TABLE E (1)

TABLE, SINGLE LIFE, MALE, SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN

1 Age	2 Adjusted payout rate 8.6%	8.8%	9.0%
0	.04055	.03991	.03932
1	.01428	.01362	.01302
2	.01375	.01306	.01243
3	.01386	.01314	.01247
4	.01425	.01348	.01278
5	.01483	.01402	.01329
6	.01556	.01470	.01392
7	.01640	.01550	.01468
8	.01738	.01643	.01556
9	.01849	.01749	.01658
10	.01975	.01870	.01774
11	.02116	.02006	.01904
12	.02217	.02154	.02047
13	.02432	.02310	.02198
14	.02597	.02469	.02351
15	.02762	.02628	.02504
16	.02924	.02783	.02653
17	.03083	.02936	.02799
18	.03240	.03085	.02942
19	.03399	.03237	.03086
20	.03560	.03390	.03232
21	.03725	.03546	.03380
22	.03894	.03706	.03531
23	.04073	.03876	.03692
24	.04268	.04061	.03868
25	.04488	.04270	.04068
26	.04735	.04507	.04294
27	.05012	.04773	.04549
28	.05317	.05066	.04831
29	.05651	.05388	.05142
30	.06011	.05735	.05476
31	.06398	.06110	.05839
32	.06815	.06513	.06229
33	.07263	.06947	.06650
34	.07742	.07413	.07102
35	.08255	.07911	.07587
36	.08802	.08443	.08105
37	.09383	.09010	.08657
38	.10000	.09612	.09244
39	.10652	.10249	.09866
40	.11338	.10920	.10522
41	.12059	.11625	.11213
42	.12815	.12366	.11939
43	.13607	.13142	.12700
44	.14435	.13955	.13498
45	.15300	.14806	.14334
46	.16204	.15694	.15208
47	.17147	.16623	.16122
48	.18123	.17585	.17070
49	.19129	.18577	.18048
50	.20158	.19592	.19050
51	.21208	.20629	.20073
52	.22280	.21688	.21119
53	.23378	.22773	.22192
54	.24508	.23892	.23298

TABLE E (1)

TABLE, SINGLE LIFE, MALE, SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN

1 Age	2 Adjusted payout rate 4.6%	4.8%	5.0%	5.2%	5.4%
55	.44859	.43495	.42186	.40929	.39723
56	.46150	.44793	.43489	.42237	.41032
57	.47458	.46110	.44813	.43565	.42365
58	.48776	.47438	.46150	.44909	.43713
59	.50097	.48770	.47492	.46259	.45060
60	.51414	.50101	.48833	.47609	.46427
61	.52726	.51426	.50170	.48956	.47783
62	.54032	.52748	.51505	.50302	.49138
63	.55334	.54065	.52837	.51647	.50493
64	.56633	.55381	.54168	.52991	.51850
65	.57929	.56696	.55499	.54337	.53208
66	.59221	.58007	.56828	.55682	.54568
67	.60510	.59317	.58156	.57027	.55928
68	.61796	.60624	.59483	.58372	.57290
69	.63082	.61933	.60813	.59721	.58657
70	.64369	.63244	.62146	.61075	.60030
71	.65659	.64559	.63485	.62436	.61411
72	.66950	.65877	.64828	.63802	.62799
73	.68243	.67198	.66175	.65174	.64194
74	.69534	.68517	.67522	.66547	.65591
75	.70820	.69834	.68867	.67919	.66990
76	.72103	.71148	.70211	.69292	.68389
77	.73381	.72459	.71553	.70663	.69789
78	.74650	.73761	.72888	.72029	.71184
79	.75897	.75043	.74202	.73374	.72560
80	.77113	.76292	.75484	.74689	.73905
81	.78273	.77486	.76710	.75946	.75192
82	.79361	.78606	.77861	.77126	.76401
83	.80383	.79659	.78943	.78237	.77540
84	.81371	.80676	.79990	.79312	.78642
85	.82363	.81699	.81043	.80395	.79753
86	.83324	.82691	.82065	.81446	.80833
87	.84255	.83653	.83057	.82466	.81882
88	.85152	.84580	.84013	.83451	.82895
89	.85997	.85453	.84914	.84380	.83851
90	.86771	.86254	.85741	.85232	.84728
91	.87471	.86978	.86489	.86005	.85523
92	.88104	.87633	.87166	.86703	.86243
93	.88671	.88220	.87773	.87329	.86889
94	.89177	.88745	.88316	.87889	.87466
95	.89639	.89224	.88811	.88400	.87992
96	.90091	.89692	.89295	.88900	.88508
97	.90522	.90138	.89757	.89378	.89001
98	.90932	.90564	.90197	.89833	.89470
99	.91324	.90970	.90617	.90267	.89919
100	.91697	.91357	.91018	.90682	.90347
101	.92054	.91727	.91402	.91078	.90756
102	.92398	.92084	.91772	.91461	.91152
103	.92735	.92434	.92135	.91836	.91539
104	.93076	.92788	.92501	.92215	.91930
105	.93443	.93169	.92896	.92623	.92352
106	.93886	.93628	.93372	.93116	.92860
107	.94513	.94280	.94047	.93815	.93583
108	.95579	.95389	.95200	.95010	.94821
109	.97700	.97600	.97500	.97400	.97300

TABLE E (1)

TABLE, SINGLE LIFE, MALE, SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN

1 Age	2 Adjusted payout rate 5.6%	5.8%	6.0%	6.2%	6.4%
55	.38565	.37452	.36383	.35356	.34369
56	.39875	.38761	.37690	.36660	.35669
57	.41209	.40096	.39025	.37993	.36998
58	.42561	.41451	.40380	.39347	.38351
59	.43922	.42814	.41746	.40714	.39718
60	.45285	.44182	.43117	.42087	.41091
61	.46648	.45551	.44489	.43463	.42469
62	.48012	.46921	.45865	.44842	.43851
63	.49376	.48293	.47243	.46225	.45238
64	.50743	.49669	.48626	.47615	.46633
65	.52113	.51049	.50015	.49011	.48035
66	.53485	.52432	.51408	.50412	.49444
67	.54859	.53818	.52806	.51820	.50860
68	.56236	.55209	.54208	.53233	.52283
69	.57619	.56606	.55619	.54656	.53717
70	.59009	.58013	.57041	.56091	.55164
71	.60409	.59431	.58474	.57540	.56626
72	.61818	.60858	.59920	.59002	.58103
73	.63234	.62295	.61375	.60475	.59593
74	.64655	.63738	.62839	.61957	.61094
75	.66078	.65183	.64306	.63445	.62601
76	.67503	.66633	.65779	.64940	.64117
77	.68930	.68086	.67256	.66441	.65640
78	.70353	.69536	.68732	.67942	.67164
79	.71758	.70969	.70192	.69428	.68675

TABLE E (1)—Continued

1 Age	2 Adjusted payout rate 5.6%	5.8%	6.0%	6.2%	6.4%
80	.73133	.72372	.71622	.70884	.70157
81	.74449	.73716	.72994	.72282	.71580
82	.75686	.74981	.74285	.73598	.72929
83	.76852	.76172	.75501	.74838	.74184
84	.77981	.77327	.76681	.76043	.75412
85	.79120	.78493	.77873	.77260	.76654
86	.80226	.79627	.79033	.78446	.77865
87	.81303	.80730	.80163	.79602	.79046
88	.82343	.81798	.81257	.80721	.80190
89	.83326	.82806	.82291	.81780	.81274
90	.84228	.83733	.83241	.82754	.82270
91	.85046	.84573	.84103	.83637	.83175
92	.85787	.85334	.84884	.84438	.83995
93	.86451	.86017	.85585	.85157	.84732
94	.87045	.86627	.86212	.85800	.85391
95	.87587	.87185	.86785	.86387	.85993
96	.88119	.87731	.87346	.86964	.86583
97	.88626	.88253	.87883	.87514	.87148
98	.89110	.88751	.88395	.88040	.87688
99	.89572	.89227	.88884	.88542	.88203
100	.90013	.89681	.89351	.89022	.88695
101	.90436	.90116	.89799	.89482	.89168
102	.90843	.90536	.90231	.89926	.89623
103	.91243	.90948	.90654	.90361	.90070
104	.91646	.91363	.91082	.90801	.90521
105	.92081	.91811	.91542	.91274	.91007
106	.92606	.92352	.92099	.91846	.91594
107	.93352	.93121	.92891	.92661	.92432
108	.94631	.94442	.94254	.94065	.93876
109	.97200	.97100	.97000	.96900	.96800

TABLE E (1)

TABLE, SINGLE LIFE, MALE, SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN

1 Age	2 Adjusted payout rate 6.6%	6.8%	7.0%	7.2%	7.4%
55	.33419	.32506	.31627	.30782	.29968
56	.34714	.33795	.32910	.32057	.31235
57	.36040	.35117	.34226	.33367	.32539
58	.37391	.36463	.35569	.34705	.33870
59	.38755	.37826	.36928	.36060	.35221
60	.40129	.39198	.38298	.37427	.36584
61	.41507	.40576	.39675	.38802	.37956
62	.42891	.41961	.41059	.40185	.39338
63	.44281	.43353	.42452	.41578	.40729
64	.45680	.44754	.43855	.42982	.42133
65	.47087	.46165	.45269	.44398	.43551
66	.48502	.47585	.46693	.45825	.44980
67	.49925	.49015	.48128	.47264	.46423
68	.51356	.50453	.49573	.48715	.47878
69	.52800	.51906	.51033	.50182	.49350
70	.54259	.53375	.52511	.51667	.50842
71	.55733	.54861	.54007	.53172	.52356
72	.57224	.56364	.55522	.54698	.53892
73	.58730	.57884	.57055	.56244	.55448
74	.60247	.59417	.58603	.57805	.57022
75	.61773	.60960	.60162	.59379	.58611
76	.63308	.62514	.61734	.60967	.60215
77	.64852	.64078	.63317	.62569	.61834
78	.66399	.65647	.64907	.64178	.63462
79	.67934	.67204	.66485	.65778	.65081
80	.69440	.68734	.68038	.67352	.66676
81	.70888	.70205	.69532	.68868	.68213
82	.72251	.71591	.70940	.70297	.69663
83	.73538	.72900	.72270	.71648	.71033
84	.74789	.74173	.73564	.72963	.72368
85	.76055	.75463	.74877	.74298	.73725
86	.77291	.76722	.76159	.75602	.75051
87	.78496	.77951	.77412	.76878	.76349
88	.79665	.79144	.78628	.78117	.77611
89	.80772	.80274	.79781	.79293	.78808
90	.81791	.81315	.80844	.80376	.79913
91	.82716	.82261	.81810	.81362	.80917
92	.83555	.83119	.82686	.82256	.81829
93	.84309	.83890	.83474	.83060	.82650
94	.84984	.84580	.84179	.83780	.83384
95	.85600	.85210	.84823	.84438	.84056
96	.86205	.85830	.85456	.85085	.84716
97	.86784	.86422	.86062	.85704	.85348
98	.87337	.86988	.86641	.86295	.85952
99	.87865	.87529	.87194	.86861	.86530
100	.88370	.88046	.87724	.87403	.87084
101	.88854	.88542	.88231	.87922	.87614
102	.89321	.89021	.88722	.88424	.88127
103	.89779	.89490	.89202	.88915	.88629
104	.90242	.89964	.89688	.89412	.89137
105	.90741	.90475	.90211	.89947	.89684
106	.91343	.91093	.90843	.90594	.90345
107	.92203	.91975	.91747	.91519	.91292
108	.93688	.93500	.93312	.93125	.92937
109	.96700	.96600	.96500	.96400	.96300

TABLE E (1)

TABLE, SINGLE LIFE, MALE, SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN.

1	2				
Age	Adjusted payout rate				
	7.6%	7.8%	8.0%	8.2%	8.4%
55	.29185	.28430	.27703	.27003	.26328
56	.30443	.29680	.28944	.28233	.27548
57	.31739	.30968	.30223	.29504	.28809
58	.33065	.32286	.31534	.30807	.30104
59	.34410	.33625	.32367	.32132	.31422
60	.35768	.34979	.34214	.33474	.32757
61	.37137	.36343	.35574	.34828	.34105
62	.38516	.37719	.36945	.36195	.35467
63	.39906	.39106	.38330	.37576	.36843
64	.41309	.40508	.39730	.38973	.38237
65	.42727	.41926	.41146	.40387	.39649
66	.44158	.43357	.42577	.41818	.41078
67	.45603	.44803	.44025	.43265	.42525
68	.47061	.46265	.45488	.44730	.43990
69	.48538	.47746	.46972	.46217	.45478
70	.50037	.49250	.48480	.47728	.46993
71	.51558	.50777	.50014	.49266	.48535
72	.53103	.52330	.51573	.50832	.50107
73	.54669	.53906	.53158	.52425	.51706
74	.56255	.55502	.54764	.54040	.53330
75	.57857	.57116	.56390	.55676	.54976
76	.59475	.58749	.58035	.57334	.56645
77	.61111	.60400	.59701	.59013	.58337
78	.62756	.62062	.61379	.60707	.60046
79	.64395	.63719	.63054	.62398	.61753
80	.66010	.65354	.64707	.64069	.63440
81	.67567	.66930	.66301	.65682	.65070
82	.69037	.68419	.67809	.67206	.66612
83	.70426	.69827	.69235	.68650	.68072
84	.71781	.71200	.70626	.70059	.69498
85	.73158	.72598	.72044	.71495	.70953
86	.74506	.73966	.73432	.72903	.72380
87	.75825	.75307	.74793	.74285	.73781
88	.77109	.76612	.76119	.75631	.75148
89	.78328	.77852	.77380	.76912	.76448
90	.79453	.78997	.78544	.78096	.77651
91	.80476	.80039	.79604	.79173	.78746
92	.81406	.80985	.80568	.80154	.79742
93	.82242	.81837	.81435	.81036	.80639
94	.82991	.82600	.82212	.81827	.81444
95	.83676	.83298	.82922	.82550	.82179
96	.84349	.83984	.83622	.83261	.82903
97	.84994	.84642	.84292	.83944	.83598
98	.85611	.85271	.84933	.84597	.84263
99	.86201	.85873	.85547	.85222	.84900
100	.86766	.86450	.86135	.85822	.85510
101	.87308	.87003	.86699	.86397	.86096
102	.87832	.87537	.87244	.86953	.86662
103	.88345	.88061	.87779	.87497	.87217
104	.88863	.88591	.88319	.88048	.87778
105	.89422	.89161	.88900	.88641	.88382
106	.90097	.89850	.89604	.89358	.89113
107	.91065	.90839	.90614	.90388	.90163
108	.92750	.92563	.92376	.92189	.92003
109	.96200	.96100	.96000	.95900	.95800

TABLE E (1)

TABLE, SINGLE LIFE, MALE, SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN.

1	2		
Age	Adjusted payout rate		
	8.6%	8.8%	9.0%
55	.25677	.25049	.24444
56	.26887	.26249	.25632
57	.28138	.27490	.26864
58	.29424	.28767	.28131
59	.30734	.30069	.29424
60	.32062	.31389	.30736
61	.33404	.32723	.32064
62	.34760	.34074	.33407
63	.36132	.35440	.34768
64	.37522	.36826	.36149
65	.38931	.38231	.37550
66	.40358	.39656	.38971
67	.41803	.41100	.40413
68	.43268	.42564	.41876
69	.44758	.44053	.43365
70	.46274	.45571	.44884
71	.47820	.47120	.46435
72	.49396	.48700	.48019
73	.51002	.50311	.49634
74	.52633	.51950	.51279
75	.54288	.53613	.52949
76	.55967	.55302	.54648
77	.57672	.57018	.56375
78	.59394	.58753	.58122
79	.61117	.60496	.59873
80	.62820	.62209	.61607

TABLE E (1)—Continued

1	2		
Age	Adjusted payout rate		
	8.6%	8.8%	9.0%
81	.64467	.63872	.63285
82	.66025	.65446	.64874
83	.67501	.66938	.66381
84	.68944	.68396	.67854
85	.70417	.69886	.69361
86	.71862	.71350	.70843
87	.73283	.72789	.72300
88	.74668	.74194	.73723
89	.75989	.75533	.75081
90	.77209	.76771	.76337
91	.78322	.77901	.77483
92	.79334	.78929	.78526
93	.80246	.79855	.79466
94	.81063	.80685	.80310
95	.81811	.81444	.81081
96	.82547	.82193	.81841
97	.83254	.82911	.82571
98	.83930	.83600	.83271
99	.84578	.84259	.83941
100	.85200	.84891	.84583
101	.85796	.85498	.85201
102	.86373	.86085	.85798
103	.86938	.86660	.86383
104	.87509	.87241	.86974
105	.88124	.87867	.87611
106	.88868	.88624	.88381
107	.89939	.89715	.89492
108	.91816	.91630	.91444
109	.95700	.95600	.95500

TABLE E (2)

TABLE, SINGLE LIFE, FEMALE, SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN

1	2				
Age	Adjusted payout rate				
	4.6%	4.8%	5.0%	5.2%	5.4%
0	.06451	.05997	.05602	.05256	.04954
1	.04555	.04079	.03664	.03301	.02984
2	.04619	.04128	.03700	.03324	.02996
3	.04751	.04245	.03802	.03414	.03074
4	.04911	.04380	.03932	.03531	.03179
5	.05090	.04552	.04081	.03666	.03301
6	.05284	.04731	.04244	.03815	.03437
7	.05496	.04926	.04424	.03981	.03590
8	.05723	.05136	.04617	.04160	.03755
9	.05965	.05361	.04826	.04353	.03935
10	.06222	.05600	.05049	.04561	.04128
11	.06493	.05853	.05286	.04782	.04334
12	.06779	.06121	.05536	.05016	.04553
13	.07076	.06400	.05797	.05261	.04783
14	.07385	.06690	.06070	.05517	.05022
15	.07705	.06991	.06353	.05782	.05272
16	.08035	.07301	.06644	.06056	.05530
17	.08376	.07622	.06947	.06341	.05797
18	.08728	.07955	.07260	.06636	.06075
19	.09094	.08300	.07586	.06944	.06365
20	.09476	.08662	.07928	.07267	.06670
21	.09874	.09038	.08285	.07604	.06989
22	.10288	.09431	.08658	.07958	.07324
23	.10719	.09842	.09047	.08328	.07675
24	.11170	.10271	.09456	.08716	.08045
25	.11640	.10720	.09884	.09124	.08432
26	.12130	.11188	.10331	.09551	.08840
27	.12640	.11677	.10798	.09997	.09266
28	.13173	.12188	.11288	.10466	.09715
29	.13726	.12719	.11798	.10955	.10184
30	.14302	.13273	.12331	.11467	.10675
31	.14898	.13848	.12884	.12000	.11187
32	.15518	.14446	.13461	.12555	.11722
33	.16161	.15068	.14061	.13135	.12280
34	.16828	.15714	.14687	.13739	.12864
35	.17521	.16385	.15337	.14368	.13473
36	.18238	.17083	.16014	.15024	.14108
37	.18982	.17806	.16717	.15707	.14770
38	.19751	.18556	.17446	.16416	.15459
39	.20546	.19331	.18201	.17151	.16174
40	.21366	.20132	.18984	.17914	.16917
41	.22212	.20960	.19793	.18704	.17687
42	.23084	.21814	.20628	.19520	.18485
43	.23982	.22695	.21492	.20365	.19311
44	.24907	.23604	.22383	.21239	.20166
45	.25861	.24542	.23305	.22143	.21053
46	.26843	.25509	.24256	.23079	.21971
47	.27852	.26505	.25237	.24044	.22920
48	.28890	.27531	.26249	.25040	.23900
49	.29955	.28583	.27289	.26066	.24911
50	.31046	.29664	.28358	.27122	.25953
51	.32163	.30772	.29454	.28207	.27024
52	.33306	.31907	.30579	.29321	.28126
53	.34478	.33072	.31736	.30467	.29261
54	.35682	.34270	.32928	.31650	.30434

TABLE E (2)

TABLE, SINGLE LIFE, FEMALE, SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN

1	2				
Age	Adjusted payout rate				
	5.6%	5.8%	6.0%	6.2%	6.4%
0	.04690	.04458	.04255	.04076	.03918
1	.02706	.02463	.02249	.02061	.01895
2	.02708	.02455	.02232	.02037	.01864
3	.02775	.02512	.02281	.02077	.01897
4	.02869	.02596	.02355	.02143	.01955
5	.02979	.02696	.02445	.02224	.02028
6	.03104	.02809	.02549	.02318	.02113
7	.03244	.02938	.02667	.02427	.02213
8	.03397	.03079	.02797	.02547	.02324
9	.03563	.03234	.02941	.02680	.02448
10	.03743	.03401	.03096	.02825	.02583
11	.03935	.03581	.03264	.02982	.02729
12	.04140	.03772	.03444	.03150	.02887
13	.04356	.03974	.03633	.03327	.03053
14	.04581	.04185	.03831	.03513	.03228
15	.04815	.04405	.04038	.03708	.03411
16	.05057	.04633	.04252	.03909	.03600
17	.05309	.04869	.04474	.04118	.03797
18	.05570	.05116	.04706	.04336	.04002
19	.05844	.05373	.04948	.04564	.04217
20	.06131	.05645	.05205	.04806	.04445
21	.06433	.05930	.05474	.05061	.04686
22	.06750	.06230	.05758	.05329	.04940
23	.07083	.06546	.06057	.05613	.05209
24	.07434	.06879	.06374	.05913	.05494
25	.07803	.07230	.06707	.06231	.05796
26	.08191	.07600	.07060	.06566	.06115
27	.08599	.07989	.07431	.06920	.06453
28	.09028	.08399	.07823	.07295	.06811
29	.09477	.08829	.08234	.07689	.07187
30	.09948	.09281	.08668	.08104	.07585
31	.10440	.09753	.09121	.08539	.08002
32	.10955	.10248	.09597	.08996	.08442
33	.11493	.10766	.10096	.09476	.08903
34	.12056	.11309	.10619	.09980	.09389
35	.12644	.11878	.11168	.10510	.09900
36	.13259	.12472	.11743	.11065	.10437
37	.13901	.13094	.12344	.11648	.11000
38	.14569	.13742	.12973	.12257	.11590
39	.15264	.14417	.13628	.12893	.12207
40	.15987	.15120	.14312	.13556	.12851
41	.16738	.15851	.15023	.14248	.13523
42	.17516	.16610	.15762	.14968	.14224
43	.18323	.17398	.16530	.15717	.14954
44	.19160	.18216	.17329	.16497	.15715
45	.20028	.19065	.18160	.17309	.16508
46	.20929	.19948	.19024	.18154	.17335
47	.21860	.20862	.19920	.19033	.18195
48	.22825	.21809	.20850	.19945	.19089
49	.23820	.22788	.21812	.20889	.20016
50	.24846	.23799	.22807	.21867	.20977
51	.25904	.24841	.23834	.22878	.21971
52	.26992	.25915	.24893	.23922	.22998
53	.28115	.27025	.25988	.25002	.24064
54	.29277	.28175	.27125	.26125	.25172

TABLE E (2)

TABLE, SINGLE LIFE, FEMALE, SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN

1	2				
Age	Adjusted payout rate				
	6.6%	6.8 %	7.0%	7.2%	7.4%
0	.03778	.03665	.03546	.03448	.03362
1	.01749	.01620	.01506	.01404	.01314
2	.01711	.01576	.01457	.01351	.01256
3	.01737	.01596	.01471	.01360	.01261
4	.01788	.01641	.01509	.01393	.01289
5	.01854	.01700	.01562	.01440	.01331
6	.01932	.01770	.01626	.01498	.01383
7	.02023	.01845	.01704	.01569	.01448
8	.02126	.01949	.01791	.01650	.01523
9	.02241	.02056	.01890	.01742	.01609
10	.02367	.02173	.02000	.01844	.01705
11	.02504	.02301	.02120	.01957	.01811
12	.02652	.02440	.02250	.02080	.01926
13	.02808	.02587	.02388	.02210	.02048
14	.02972	.02741	.02534	.02347	.02177
15	.03144	.02903	.02686	.02490	.02313
16	.03321	.03070	.02843	.02638	.02453
17	.03507	.03245	.03008	.02793	.02598
18	.03700	.03427	.03179	.02954	.02751
19	.03903	.03618	.03359	.03124	.02911
20	.04118	.03821	.03551	.03305	.03082
21	.04345	.04036	.03754	.03498	.03264
22	.04586	.04263	.03970	.03702	.03457
23	.04840	.04505	.04198	.03918	.03663
24	.05111	.04762	.04442	.04150	.03883

TABLE E (2)—Continued

1 Age	2 Adjusted payout rate 6.6%	6.8%	7.0%	7.2%	7.4%
25	.05398	.05035	.04702	.04397	.04118
26	.05702	.05324	.04978	.04660	.04368
27	.06024	.05631	.05271	.04939	.04635
28	.06366	.05958	.05583	.05237	.04920
29	.06727	.06303	.05912	.05553	.05221
30	.07108	.06668	.06262	.05888	.05542
31	.07508	.07052	.06630	.06241	.05881
32	.07930	.07457	.07019	.06614	.06240
33	.08374	.07884	.07430	.07009	.06619
34	.08842	.08334	.07864	.07427	.07022
35	.09335	.08809	.08322	.07869	.07447
36	.09853	.09310	.08805	.08335	.07897
37	.10397	.09836	.09314	.08827	.08373
38	.10960	.10389	.09849	.09345	.08874
39	.11566	.10969	.10411	.09889	.09401
40	.12192	.11576	.10999	.10460	.09955
41	.12845	.12211	.11616	.11058	.10536
42	.13527	.12873	.12260	.11685	.11144
43	.14238	.13566	.12934	.12340	.11782
44	.14980	.14289	.13639	.13027	.12451
45	.15754	.15044	.14376	.13746	.13151
46	.16563	.15834	.15147	.14499	.13887
47	.17404	.16657	.15952	.15285	.14655
48	.18280	.17515	.16792	.16107	.15459
49	.19190	.18407	.17665	.16963	.16297
50	.20133	.19333	.18574	.17853	.17170
51	.21110	.20292	.19516	.18778	.18077
52	.22121	.21287	.20493	.19738	.19020
53	.23171	.22320	.21510	.20739	.20003
54	.24264	.23398	.22572	.21784	.21032

TABLE E (2)

TABLE, SINGLE LIFE, FEMALE, SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN.

1 Age	2 Adjusted payout rate 7.6%	7.8%	8.0%	8.2%	8.4%
0	.03284	.03215	.03153	.03097	.03046
1	.01234	.01162	.01098	.01040	.00989
2	.01172	.01097	.01029	.00969	.00915
3	.01172	.01093	.01023	.00959	.00902
4	.01196	.01113	.01038	.00972	.00912
5	.01233	.01146	.01067	.00997	.00933
6	.01281	.01189	.01106	.01032	.00965
7	.01340	.01244	.01157	.01078	.01007
8	.01410	.01308	.01216	.01133	.01058
9	.01490	.01382	.01285	.01198	.01119
10	.01579	.01466	.01364	.01272	.01189
11	.01679	.01560	.01452	.01355	.01267
12	.01787	.01662	.01549	.01446	.01354
13	.01903	.01771	.01652	.01544	.01446
14	.02025	.01886	.01761	.01647	.01543
15	.02152	.02007	.01875	.01755	.01646
16	.02284	.02131	.01992	.01866	.01751
17	.02422	.02261	.02115	.01982	.01861
18	.02565	.02397	.02243	.02103	.01975
19	.02717	.02540	.02378	.02231	.02096
20	.02878	.02693	.02523	.02368	.02226
21	.03050	.02855	.02677	.02514	.02364
22	.03233	.03029	.02842	.02670	.02513
23	.03429	.03214	.03018	.02837	.02671
24	.03638	.03413	.03207	.03017	.02843
25	.03861	.03626	.03409	.03210	.03026
26	.04100	.03853	.03626	.03417	.03224
27	.04354	.04096	.03858	.03638	.03436
28	.04627	.04356	.04107	.03877	.03664
29	.04915	.04633	.04372	.04130	.03907
30	.05223	.04928	.04654	.04401	.04167
31	.05548	.05239	.04953	.04688	.04442
32	.05892	.05570	.05272	.04994	.04736
33	.06258	.05922	.05609	.05319	.05049
34	.06645	.06295	.05969	.05665	.05382
35	.07055	.06690	.06350	.06033	.05737
36	.07490	.07110	.06755	.06424	.06115
37	.07949	.07554	.07184	.06839	.06516
38	.08434	.08023	.07638	.07278	.06941
39	.08944	.08517	.08117	.07742	.07390
40	.09481	.09038	.08622	.08231	.07865
41	.10045	.09585	.09153	.08747	.08365
42	.10637	.10160	.09711	.09289	.08892
43	.11257	.10763	.10298	.09859	.09446
44	.11908	.11397	.10914	.10460	.10030
45	.12591	.12062	.11563	.11092	.10646
46	.13308	.12762	.12246	.11757	.11295
47	.14059	.13495	.12961	.12456	.11977
48	.14845	.14264	.13713	.13190	.12694
49	.15665	.15066	.14498	.13958	.13445
50	.16520	.15904	.15318	.14761	.14231
51	.17410	.16776	.16173	.15599	.15052
52	.18336	.17685	.17064	.16473	.15909
53	.19302	.18634	.17996	.17388	.16807
54	.20315	.19629	.18975	.18350	.17752

TABLE E (2)

TABLE, SINGLE LIFE, FEMALE, SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN

1 Age	2 Adjusted payout rate 8.6%	8.8%	9.0%
0	.03001	.02959	.02921
1	.00942	.00900	.00862
2	.00866	.00822	.00782
3	.00851	.00804	.00763
4	.00857	.00808	.00764
5	.00876	.00825	.00778
6	.00904	.00850	.00800
7	.00944	.00886	.00833
8	.00991	.00930	.00874
9	.01048	.00983	.00924
10	.01113	.01045	.00982
11	.01187	.01115	.01048
12	.01269	.01192	.01122
13	.01357	.01275	.01201
14	.01449	.01363	.01285
15	.01546	.01455	.01372
16	.01646	.01550	.01462
17	.01750	.01648	.01556
18	.01858	.01751	.01653
19	.01973	.01860	.01756
20	.02096	.01976	.01867
21	.02227	.02101	.01985
22	.02368	.02235	.02112
23	.02519	.02379	.02249
24	.02682	.02534	.02397
25	.02857	.02701	.02557
26	.03046	.02881	.02729
27	.03248	.03075	.02914
28	.03467	.03284	.03115
29	.03699	.03507	.03329
30	.03949	.03747	.03559
31	.04214	.04001	.03803
32	.04496	.04273	.04065
33	.04797	.04563	.04344
34	.05118	.04872	.04643
35	.05461	.05203	.04962
36	.05825	.05555	.05302
37	.06213	.05930	.05665
38	.06625	.06328	.06050
39	.07060	.06750	.06450
40	.07520	.07196	.06892
41	.08006	.07668	.07349
42	.08517	.08165	.07832
43	.09057	.08689	.08342
44	.09625	.09242	.08880
45	.10225	.09826	.09449
46	.10858	.10444	.10051
47	.11523	.11093	.10685
48	.12224	.11778	.11354
49	.12958	.12496	.12056
50	.13728	.13248	.12792
51	.14531	.14036	.13563
52	.15372	.14859	.14370
53	.16253	.15723	.15218
54	.17181	.16635	.16113

TABLE E (2)

TABLE, SINGLE LIFE, FEMALE, SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN

1 Age	2 Adjusted payout rate 4.6%	4.8%	5.0%	5.2%	5.4%
55	.36923	.35507	.34150	.32874	.31650
56	.38200	.36783	.35430	.34140	.32908
57	.39513	.38095	.36741	.35447	.34209
58	.40857	.39441	.38086	.36790	.35549
59	.42227	.40814	.39461	.38164	.36920
60	.43618	.42210	.40860	.39564	.38320
61	.45027	.43626	.42280	.40987	.39744
62	.46456	.45063	.43724	.42435	.41194
63	.47905	.46523	.45192	.43909	.42672
64	.49378	.48000	.46688	.45413	.44182
65	.50877	.49522	.48214	.46949	.45727
66	.52403	.51066	.49772	.48519	.47308
67	.53954	.52636	.51358	.50121	.48922
68	.55525	.54228	.52970	.51749	.50565
69	.57108	.55835	.54598	.53396	.52229
70	.58699	.57451	.56237	.55056	.53908
71	.60296	.59075	.57886	.56729	.55601
72	.61899	.60707	.59546	.58413	.57309
73	.63504	.62344	.61211	.60105	.59026
74	.65106	.63979	.62877	.61800	.60747
75	.66700	.65607	.64538	.63491	.62468
76	.68289	.67233	.66197	.65183	.64190
77	.69876	.68857	.67857	.66878	.65917
78	.71448	.70468	.69506	.68562	.67635

TABLE E (2)—Continued

1 Age	2 Adjusted payout rate 4.6%	4.8%	5.0%	5.2%	5.4%
79	.72990	.72050	.71126	.70219	.69327
80	.74488	.73588	.72703	.71833	.70977
81	.75921	.75061	.74215	.73381	.72561
82	.77285	.76464	.75655	.74857	.74071
83	.78593	.77810	.77038	.76276	.75525
84	.79883	.79139	.78404	.77679	.76963
85	.81194	.80491	.79796	.79109	.78431
86	.82427	.81763	.81106	.80457	.79815
87	.83573	.82947	.82327	.81714	.81107
88	.84637	.84046	.83461	.82881	.82307
89	.85614	.85057	.84504	.83957	.83414
90	.86502	.85975	.85453	.84935	.84421
91	.87300	.86800	.86305	.85814	.85327
92	.88004	.87530	.87059	.86592	.86129
93	.88621	.88168	.87719	.87273	.86831
94	.89159	.88726	.88296	.87869	.87445

TABLE E (2)

TABLE, SINGLE LIFE, FEMALE, SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN.

1 Age	2 Adjusted payout rate 5.6%	5.8%	6.0%	6.2%	6.4%
55	.30482	.29369	.28308	.27295	.26328
56	.31732	.30610	.29537	.28513	.27534
57	.33027	.31896	.30814	.29779	.28789
58	.34361	.33223	.32133	.31090	.30089
59	.35728	.34586	.33489	.32438	.31429
60	.37125	.35978	.34877	.33819	.32803
61	.38549	.37399	.36294	.35231	.34209
62	.40000	.38850	.37742	.36676	.35648
63	.41481	.40331	.39223	.38155	.37124
64	.42995	.41848	.40741	.39672	.38640
65	.44546	.43404	.42300	.41233	.40200
66	.46135	.45000	.43901	.42837	.41807
67	.47760	.46634	.45542	.44484	.43458
68	.49416	.48301	.47219	.46168	.45149
69	.51095	.49993	.48922	.47882	.46870
70	.52791	.51704	.50647	.49618	.48617
71	.54503	.53434	.52392	.51377	.50388
72	.56232	.55182	.54157	.53158	.52184
73	.57972	.56943	.55939	.54958	.54000
74	.59719	.58713	.57730	.56769	.55829
75	.61466	.60485	.59526	.58586	.57667
76	.63217	.62263	.61329	.60414	.59517
77	.64974	.64050	.63143	.62254	.61382
78	.66725	.65832	.64955	.64093	.63247
79	.68451	.67589	.66743	.65911	.65093
80	.70135	.69306	.68491	.67689	.66899
81	.71752	.70956	.70173	.69401	.68641
82	.73296	.72533	.71780	.71038	.70307
83	.74783	.74052	.73330	.72618	.71916
84	.76255	.75557	.74868	.74187	.73515
85	.77760	.77098	.76443	.75796	.75157
86	.79180	.78553	.77932	.77318	.76710
87	.80506	.79912	.79323	.78741	.78164
88	.81739	.81177	.80619	.80067	.79521
89	.82876	.82344	.81816	.81292	.80774
90	.83912	.83407	.82906	.82410	.81918
91	.84844	.84364	.83889	.83417	.82949
92	.85669	.85212	.84759	.84309	.83863
93	.86391	.85955	.85522	.85092	.84665
94	.87024	.86605	.86189	.85776	.85366

TABLE E (2)

TABLE, SINGLE LIFE, FEMALE, SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN

(1) Age	(2) Adjusted payout rate 6.6%	6.8%	7.0%	7.2%	7.4%
55	.25406	.24525	.23684	.22881	.22113
56	.26598	.25704	.24848	.24030	.23247
57	.27841	.26934	.26065	.25233	.24436
58	.29131	.28212	.27331	.26486	.25675
59	.30460	.29531	.28639	.27782	.26959
60	.31826	.30887	.29984	.29117	.28282
61	.33225	.32277	.31366	.30488	.29643
62	.34658	.33704	.32785	.31898	.31043
63	.36129	.35170	.34244	.33350	.32487
64	.37643	.36679	.35748	.34848	.33978
65	.39202	.38236	.37301	.36397	.35522
66	.40810	.39843	.38907	.38000	.37121
67	.42463	.41498	.40563	.39655	.38774

TABLE E (2)—Continued

1 Age	2 Adjusted payout rate 6.6%	6.8%	7.0%	7.2%	7.4%
68	.44158	.43197	.42263	.41357	.40476
69	.45887	.44931	.44002	.43098	.42219
70	.47642	.46694	.45771	.44872	.43996
71	.49424	.48485	.47570	.46678	.45808
72	.51233	.50305	.49400	.48517	.47655
73	.53064	.52150	.51257	.50384	.49532
74	.54911	.54012	.53133	.52274	.51433
75	.56767	.55886	.55023	.54179	.53352
76	.58638	.57777	.56932	.56105	.55293
77	.60526	.59686	.58862	.58054	.57261
78	.62417	.61601	.60799	.60012	.59239
79	.64288	.63498	.62720	.61956	.61205
80	.66123	.65359	.64606	.63866	.63138
81	.67892	.67154	.66428	.65712	.65007
82	.69586	.68875	.68174	.67484	.66802
83	.71223	.70539	.69864	.69198	.68541
84	.72851	.72195	.71548	.70908	.70277
85	.74525	.73900	.73283	.72672	.72069
86	.76110	.75515	.74928	.74346	.73771
87	.77594	.77029	.76470	.75917	.75369
88	.78979	.78443	.77912	.77386	.76865
89	.80260	.79751	.79246	.78746	.78250
90	.81430	.80946	.80466	.79990	.79518
91	.82484	.82024	.81567	.81113	.80663
92	.83420	.82980	.82544	.82111	.81681
93	.84241	.83820	.83402	.82986	.82574
94	.84959	.84554	.84153	.83753	.83357

TABLE E (2)

TABLE, SINGLE LIFE, FEMALE, SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN.

1 Age	2 Adjusted payout rate 7.6%	7.8%	8.0%	8.2%	8.4%
55	.21379	.20678	.20007	.19365	.18751
56	.22498	.21781	.21094	.20437	.19806
57	.23672	.22940	.22238	.21565	.20919
58	.24897	.24151	.23434	.22746	.22086
59	.26168	.25408	.24678	.23975	.23300
60	.27479	.26706	.25963	.25248	.24559
61	.28829	.28045	.27289	.26561	.25859
62	.30219	.29424	.28657	.27917	.27203
63	.31654	.30849	.30072	.29321	.28595
64	.33137	.32324	.31538	.30777	.30041
65	.34674	.33854	.33060	.32291	.31546
66	.36269	.35444	.34643	.33867	.33115
67	.37919	.37090	.36285	.35503	.34745
68	.39620	.38789	.37981	.37196	.36432
69	.41364	.40532	.39723	.38936	.38170
70	.43144	.42314	.41505	.40718	.39950
71	.44960	.44133	.43327	.42541	.41774
72	.46813	.45992	.45190	.44407	.43643
73	.48699	.47885	.47089	.46312	.45552
74	.50611	.49806	.49019	.48249	.47495
75	.52542	.51749	.50972	.50211	.49465
76	.54498	.53718	.52954	.52204	.51469
77	.56482	.55718	.54968	.54232	.53510
78	.58480	.57733	.57000	.56280	.55572
79	.60466	.59739	.59025	.58322	.57631
80	.62421	.61715	.61021	.60337	.59664
81	.64313	.63629	.62955	.62291	.61636
82	.66131	.65468	.64815	.64171	.63536
83	.67892	.67252	.66621	.65997	.65382
84	.69653	.69037	.68428	.67827	.67233
85	.71473	.70884	.70301	.69725	.69156
86	.73202	.72640	.72083	.71532	.70987
87	.74827	.74201	.73759	.73233	.72713
88	.76348	.75837	.75331	.74829	.74332
89	.77759	.77272	.76789	.76311	.75836
90	.79050	.78586	.78126	.77669	.77217
91	.80217	.79774	.79335	.78899	.78466
92	.81254	.80831	.80410	.79993	.79578
93	.82165	.81758	.81355	.80954	.80556
94	.82963	.82572	.82183	.81797	.81413

TABLE E (2)

TABLE, SINGLE LIFE, FEMALE, SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN

1 Age	2 Adjusted payout rate 8.6%	8.8%	9.0%
55	.18164	.17601	.17062
56	.19203	.18624	.18069
57	.20300	.19705	.19134
58	.21451	.20841	.20255
59	.22651	.22026	.21425
60	.23895	.23256	.22641
61	.25182	.24529	.23900
62	.26514	.25848	.25205
63	.27894	.27216	.26561
64	.29329	.28640	.27973
65	.30825	.30125	.29448
66	.32385	.31677	.30990
67	.34008	.33293	.32598
68	.35691	.34969	.34268
69	.37424	.36698	.35992
70	.39203	.38474	.37764
71	.41026	.40297	.39585
72	.42897	.42168	.41456
73	.44809	.44083	.43373
74	.46757	.46036	.45329
75	.48735	.48020	.47319
76	.50748	.50041	.49348
77	.52801	.52104	.51421
78	.54877	.54194	.53522
79	.56951	.56283	.55625
80	.59001	.58349	.57706
81	.60992	.60356	.59730
82	.62910	.62292	.61683
83	.64775	.64175	.63584
84	.66647	.66067	.65495
85	.68503	.68036	.67486
86	.70448	.69915	.69387
87	.72197	.71687	.71182
88	.73839	.73351	.72868
89	.75366	.74900	.74438
90	.76768	.76322	.75881
91	.78037	.77611	.77189
92	.79167	.78759	.78353
93	.80161	.79768	.79378
94	.81032	.80653	.80277

TABLE F

TABLE, 6 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATION AND PAYOUT SEQUENCES

1 Number of months by which the valuation date precedes the first payout: At least	But less than	2 Factors for payout at the end of each: Annual period	Semi-annual period	Quarterly period	Monthly period
	1	1.000000	.985643	.978516	.973784
1	2	.995156	.980869	.973776	.969067
2	3	.990336	.976117	.969059	
3	4	.985538	.971389	.964365	
4	5	.980764	.966684		
5	6	.976014	.962001		
6	7	.971286	.957341		
7	8	.966581			
8	9	.961899			
9	10	.957239			
10	11	.952603			
11	12	.947988			
12		.943396			

PAR. 2. Section 1.6012–3(a) is amended by adding a new subparagraph (6), at the end thereof, to read as follows:

(6) *Charitable remainder trusts.* Every fiduciary for a charitable remainder annuity trust (as defined in § 1.664–2) or a charitable remainder unitrust (as defined in § 1.664–3) shall make a return on Form 1041–B for each taxable year of the trust even though it is nonexempt because it has unrelated business taxable income. The return on Form 1041–B shall be made in accordance with the instructions for the form and shall be filed with the designated Internal Revenue office on or before the 15th day of the fourth month following the close of the taxable year of the trust. A copy of the instrument governing the trust, accompanied by a written declaration of the fiduciary under the penalties of perjury that it is a true and complete copy, shall be attached to the return for the first taxable year of the trust.

[F.R. Doc. 70–9961; Filed, Aug. 4, 1970; 8:45 a.m.]

[26 CFR Part 1]

TREATMENT OF CERTAIN COMBAT PAY OF MEMBERS OF THE ARMED FORCES

Notice of Proposed Rule Making

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such case, a public hearing will be held, and notice of the time, place, and date

will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

In order to clarify the Income Tax Regulations (26 CFR Part 1) under section 112 of the Internal Revenue Code of 1954, such regulations are amended as follows:

Section 1.112–1 is amended by adding immediately after paragraph (i) new paragraphs (j) and (k). These amended provisions read as follows:

§ 1.112–1 Compensation of members of the Armed Forces of the United States for service in a combat zone during an induction period, or for service while hospitalized as a result of such combat-zone service.

* * * * *

(j) Persons who perform military duties in areas outside an area designated as a combat zone by Executive order, which duties are in support of military operations in such zone and are performed under conditions which qualify such persons for Hostile Fire Pay (as authorized under section 9(a) of the Uniformed Services Pay Act of 1963 (37 U.S.C. 310)), shall, during the period of such qualifying service, be deemed to be performing service in such combat zone.

(k) (1) Active service is "performed in a combat zone" provided either—

(i) That an individual is physically present in such zone by reason of the performance of military duties, or

(ii) That as a result of physical presence in such zone such person qualifies for Hostile Fire Pay (as authorized under section 9(a) of the Uniformed Services Pay Act of 1963 (37 U.S.C. 310)).

(2) For periods subsequent to the date of publication of this notice as a Treasury decision, an individual will not be considered to be physically present in a combat zone "by reason of the performance of military duties" merely because—

(i) Such individual is physically present in a combat zone while on leave from a duty station which is not located inside a combat zone or is otherwise present solely for his own personal convenience, or

(ii) During the course of a trip between two points both of which lie outside a combat zone, such individual passes through the airspace over a combat zone.

This subparagraph shall not apply to individuals who are assigned to units in a combat zone or who are ordered on official temporary duty to a combat zone.

[F.R. Doc. 70–10256; Filed, Aug. 4, 1970; 8:50 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

[7 CFR Part 362]

PRODUCTS SUBJECT TO FEDERAL FOOD, DRUG, AND COSMETIC ACT AND FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

Proposed Statement of General Policy and Interpretation

CROSS REFERENCE: For a document proposing a new § 362.150 regarding a statement of general policy and interpretation concerning products subject to the Federal Food, Drug, and Cosmetic Act and the Federal Insecticide, Fungicide, and Rodenticide Act, see F.R. Doc. 70–10165, Department of Health, Education, and Welfare, Food and Drug Administration, *infra*.

Consumer and Marketing Service

[7 CFR Part 919]

PEACHES GROWN IN MESA COUNTY, COLO.

Notice of Proposed Rule Making With Respect to Expenses and Rate of Assessment for the 1969–70 Fiscal Period

Consideration is being given to the following proposals submitted by the Administrative Committee, established under the marketing agreement, as amended, and Order No. 919, as amended (7 CFR Part 919), regulating the handling of peaches grown in Mesa County, Colo., effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the terms and provisions thereof:

(1) That the expenses that are reasonable and likely to be incurred by the Administrative Committee during the period November 1, 1969, through October 31, 1970, will amount to $2,000.

(2) That there be fixed, at $0.01143 per cwt., or equivalent quantity of peaches in other containers or in bulk, the rate of assessment payable by each handler in accordance with § 919.41 of the aforesaid marketing agreement and order.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals should file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 10th day after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: July 30, 1970.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 70–10120; Filed, Aug. 4, 1970; 8:45 a.m.]

[7 CFR Part 925]

HANDLING OF FRESH PRUNES GROWN IN DESIGNATED COUNTIES IN IDAHO AND IN MALHEUR COUNTY, OREG.

Approval of Expenses and Fixing of Rate of Assessment for 1970–71 Fiscal Period

Consideration is being given to the following proposals submitted by the Idaho-Malheur County, Oreg., Fresh Prune Marketing Committee, established under the marketing agreement and Order No. 925 (7 CFR Part 925), regulating the handling of fresh prunes grown in designated counties in Idaho and in Malheur County, Oreg., effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the terms and provisions thereof:

(1) Expenses that are reasonable and likely to be incurred by the Idaho-Malheur County, Oreg., Fresh Prune Marketing Committee, during the period July 1, 1970, through June 30, 1971, will amount to $5,620.

(2) That there be fixed, at $0.01 per one-half bushel or equivalent quantity of fresh prunes, the rate of assessment payable by each handler in accordance with § 925.41 of the aforesaid marketing agreement and order.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals should file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112A, Washington, D.C. 20250, not later than the 10th day after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: July 30, 1970.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 70–10121; Filed, Aug. 4, 1970; 8:45 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 3]

PRODUCTS SUBJECT TO FEDERAL FOOD, DRUG, AND COSMETIC ACT AND FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

Proposed Statement of General Policy and Interpretation

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 355, 357, 360b, 371 (a)), and the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 135–135k), and pursuant to authority delegated under said statutes, the Commissioner of Food and Drugs, Department of Health, Education, and Welfare, and the Administrator of the Agricultural Research Service, Department of Agriculture, jointly propose establishment of the following policy and interpretation regarding the application of said Acts to products that are subject to both of said Acts. It is proposed to publish said policy in 21 CFR Part 3 as new § 3.79 and in 7 CFR Part 362 as new § 362.150.

§ 3.79 Products subject to the Federal Food, Drug and Cosmetic Act and the Federal Insecticide, Fungicide, and Rodenticide Act.

(a) Certain products are subject to the requirements of both the Federal Food, Drug, and Cosmetic Act (FFDCA) and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). In the past, confusion, misunderstanding, and inconvenience have resulted from procedures followed in connection with the proposed marketing of such products.

(b) The Administrator of the Agriculture Research Service, Department of Agriculture (USDA), and the Commissioner of the Food and Drug Administration (FDA), are agreed that a new procedure should be followed whereby the manufacturer would be informed (1) of the agency exercising primary jurisdiction regarding his product, (2) that the matter will be referred to the other agency for decision under the law of that agency, and (3) that approval for marketing the product will not be granted unless or until each agency has approved the marketing under its respective authority.

(c) Whenever a product subject to the requirements of both the FFDCA and the FIFRA is submitted to either FDA or USDA, an interagency determination will be made and an agreement reached with respect to (1) whether particular claims are "economic poison" or "drug" claims and (2) whether the representations made for the product, including the implications to be drawn therefrom, are primarily "economic poison" or "drug" representations.

(d) Whenever application is made to USDA for registration of a product that is both a drug and an economic poison and determination has been made that the principal claims or representations relate to an economic poison, USDA will withhold registration of the product under FIFRA until it has been informed by FDA that the product complies with the provisions of the laws administered by FDA.

(e) Whenever application is made to FDA for approval of a product that is both a drug and an economic poison and determination has been made that the principal claims or representations relate to a drug, FDA will not approve a new-drug application or an antibiotic application without first being advised by USDA that the claims or representations subject to the provisions of the FIFRA are warranted and that the product is eligible for registration under that act.

(f) Whenever application is made to USDA for the registration of a product that is both a drug and an economic poison and determination has been made that the principal claims or representations relate to a drug, the matter will be referred by USDA to FDA and the matter will thereafter be handled as if the application had been originally made to FDA.

(g) Whenever application is made to FDA for approval of a product that is both an economic poison and a drug and determination has been made that the principal claims or representations relate to an economic poison, the matter will be referred by FDA to USDA and the matter will thereafter be handled as if the application had been originally made to USDA.

(h) Neither agency will approve the marketing of a product under the law administered by it if the product would not be in full compliance with the requirements of a law administered by the other.

Any interested person may, within 30 days from the date of publication of this notice in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business.

Dated: July 27, 1970.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

Dated: July 31, 1970.

GEORGE W. IRVING, Jr.,
Administrator,
Agricultural Research Service.

[F.R. Doc. 70–10165; Filed, Aug. 4, 1970; 8:49 a.m.]

[21 CFR Parts 135, 144]

NEW ANIMAL DRUGS

Proposed Definitions and Procedural Regulations; Extension of Time for Filing Comments

The notice published in the FEDERAL REGISTER of May 15, 1970 (35 F.R. 7569), proposing definitions and procedural regulations regarding new animal drugs, provided for the filing of comments within 30 days after said date. A notice extending such time to August 13, 1970 was published on June 27, 1970 (35 F.R. 10526).

The Commissioner of Food and Drugs has received requests for a further extension of such time and, good reason therefor appearing, the time for filing comments on the subject proposal is hereby extended to September 12, 1970.

This action is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343 et seq.; 21 U.S.C. 360b, 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: July 22, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70–10132; Filed, Aug. 4, 1970; 8:46 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 121]

[Docket No. 10204; Notice No. 70–32]

SPECIALIZED NAVIGATION SYSTEMS

Notice of Proposed Rule Making

The Federal Aviation Administration is considering amending Part 121 of the Federal Aviation Regulations to prescribe requirements for the use and approval of Doppler Radar and Inertial Navigation Systems and to update the provisions of § 121.355 and § 121.389.

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 regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, GC–24, 800 Independence Avenue SW., Washington, D.C. 20590. All communications received on or before October 5, 1970, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Current § 121.355 prohibits a flag or supplemental air carrier or commercial operator from conducting an operation for which specialized means of navigation are required unless it shows that adequate airborne equipment is provided for the specialized navigation authorized for the particular route.

Current § 121.389 requires a flag or supplemental air carrier or commercial operator to utilize a flight crewmember

holding a current flight navigator certificate in operations outside the 48 contiguous States and the District of Columbia whenever the Administrator determines that celestial navigation is necessary or other specialized means of navigation necessary to obtain a reliable fix cannot be adequately accomplished from the pilot station for a period of more than 1 hour. In addition, the Administrator may also require a flight navigator when specialized means of navigation are necessary for 1 hour or less.

In complying with § 121.355, operators are required to obtain approval from the FAA for specialized navigation systems they may elect to use. This approval is given only after the operator has demonstrated to the satisfaction of the FAA that the navigation equipment to be used is adequate. However, neither this section, nor § 121.389, require the use of any particular kind of equipment and the selection of a navigation system is a discretionary matter that rests with the operator.

The FAA has issued Advisory Circulars AC 25–4 and AC 121–13 to inform the public of one acceptable means for applicants to demonstrate that the navigational appliances involved constitute adequate airborne equipment for the specialized navigation to be authorized for the particular routes to be flown. Such a procedure has been considered by the FAA to be more desirable and appropriate than prescribing rigid minimum standards in the form of rules of general applicability, inasmuch as the rapidly changing state of the art in the developing field of specialized means of navigation requires flexibility in the criteria used in approving the use of such systems.

Today, in view of the extensive knowledge and experience which has been obtained with respect to Doppler Radar and Inertial Navigation Systems the FAA now considers it appropriate to propose, for general applicability to Part 121 certificate holders, requirements for the approval of these two systems. Accordingly, it is proposed to amend § 121.355 to permit the use of Doppler Radar and Inertial Navigation Systems when approved in accordance with the requirements proposed herein. However, it is the intent of the FAA to retain the flexibility in the present rule with respect to approval for the use of specialized navigation systems other than Doppler Radar and Inertial Navigation Systems.

The requirements proposed for evaluating and approving Doppler Radar and Inertial Navigation Systems would be set forth in a new proposed Appendix G to Part 121. These criteria are substantially the same as those currently found in Advisory Circulars AC 25–4 and AC 121.13. In the opinion of the FAA, these criteria, developed in the light of technological advances and operational experience, have been shown to be reliable and to provide adequately for national security and safety in air commerce.

In addition, it is proposed to delete from §§ 121.355 and 121.389 all references to routes or route segments. This action is consistent with proposals in Notice No. 70–18 (published in the FEDERAL REGISTER on May 2, 1970, 35 F.R. 7021) proposing revisions to the pilot in command route and airport qualification requirements of Part 121.

In consideration of the foregoing, it is proposed to amend Part 121 of the Federal Aviation Regulations as follows:

1. By amending § 121.355 to read as follows:

§ 121.355 Equipment for operations on which specialized means of navigation are used.

No certificate holder may conduct an operation—

(a) Using Doppler Radar or an Inertial Navigation System unless such systems have been approved in accordance with Appendix G to this Part; or

(b) Using specialized means of navigation, other than those specified in paragraph (a) of this section, unless it shows that an adequate airborne system is provided for the specialized navigation authorized for the particular operation.

2. By amending § 121.389 to read as follows:

§ 121.389 Flight navigator and specialized navigation equipment.

(a) No certificate holder may operate an airplane outside the 48 contiguous States and the District of Columbia when its position cannot be reliably fixed for a period of more than 1 hour, without:

(1) A flight crewmember who holds a current flight navigator certificate; or

(2) Specialized means of navigation approved in accordance with § 121.355 which enables a reliable determination to be made of the position of the aircraft by each pilot seated at his duty station.

(b) Notwithstanding paragraph (a) of this section, the Administrator may also require a flight navigator or special navigation equipment when specialized means of navigation are necessary for 1 hour or less. In making this determination, the Administrator considers—

(1) The speed of the airplane;

(2) Normal weather conditions en route;

(3) Extent of air traffic control;

(4) Traffic congestion;

(5) Area of navigational radio coverage at destination;

(6) Fuel requirements;

(7) Fuel available for return to point of departure or alternates;

(8) Predication of flight upon operation beyond the point of no return; and

(9) Any other factors he determines are relevant in the interest of safety.

(c) Operations where a navigator or special navigation equipment is required are specified in the operations specifications of the air carrier or commercial operator.

3. By adding a new Appendix immediately after Appendix F to read as follows:

APPENDIX G

DOPPLER RADAR AND INERTIAL NAVIGATION SYSTEMS (INS): REQUEST FOR EVALUATION; EQUIPMENT AND EQUIPMENT INSTALLATION; TRAINING PROGRAM; EQUIPMENT ACCURACY AND RELIABILITY; EVALUATION PROGRAM

1. Application authority. (a) An applicant for authority to use a Doppler Radar or Inertial Navigation System must submit a request for evaluation of the system to the Air Carrier District Office or International Field Office charged with the overall inspection of its operations 30 days prior to the start of evaluation flights.

(b) The application must contain:

(1) A summary of experience with the system showing to the satisfaction of the Administrator a history of the accuracy and reliability of the system proposed to be used.

(2) A training program curriculum for initial approval under § 121.405 of this part.

(3) A maintenance program for compliance with subpart L of this part.

(4) A description of equipment installation.

(5) Proposed revisions to the Operations Manual outlining all normal and emergency procedures relative to use of the proposed system, including detailed methods for continuing the navigational function with partial or complete equipment failure, and methods for determining the most accurate system when an unusually large divergence between systems occurs.

(6) Proposed revisions to the Minimum Equipment List with adequate justification.

(7) A list of operations to be conducted using the system, containing an analysis of each with respect to length, magnetic compass reliability, availability of en route aids, and adequacy of gateway and terminal radio facilities to support the system.

2. Equipment and Equipment Installation—Inertial Navigation Systems (INS) or Doppler Systems. (a) Inertial Navigation and Doppler Systems must be installed in accordance with the applicable airworthiness requirements.

(b) Cockpit arrangement must be visible and usable by either pilot seated at his duty station.

(c) Upon the occurrence of reasonably probable failures or malfunctions within the system, the equipment must provide, by visual, mechanical, or electrical output signals, indications of the invalidity of output data.

(d) A reasonably probable failure or malfunction within the system must not result in loss of the aircraft's required navigation capability.

(e) The system alignment/updating and/or navigation computer functions may not be invalidated by normal aircraft power interruptions and transients.

(f) The system cannot be the source or cause of objectionable radio frequency interference, and cannot be adversely affected by radio frequency interference from other aircraft systems.

(g) The FAA-approved airplane flight manual, or supplement thereto, must include pertinent material as required to define the normal and emergency operating procedures and applicable operating limitations associated with INS and Doppler performance (such as maximum latitude at which ground alignment capability is provided or deviations between systems).

3. Equipment and Equipment Installation—Inertial Navigation Systems (INS). (a) If an applicant elects to use an Inertial Navigation System it must be a dual system (including navigational computers and reference units). Both systems must be operational at takeoff.

(b) Each Inertial Navigation System must incorporate the following:

(1) Valid ground alignment capability at all latitudes appropriate for intended use of the installation.

(2) A display of alignment status to the flight crew.

(3) The present position of the airplane in suitable coordinates.

(4) Information relative to destination(s) or waypoint position:

(i) The information needed to gain and maintain a desired track and to determine deviations from the desired track in order to go to the next waypoint or destination.

(ii) The information needed to determine distance and time to go to the next waypoint or destination.

(c) For INS installations that do not have memory or other in-flight alignment means, a separate electrical power source (independent of the main propulsion system) must be provided which can supply, for at least 5 minutes, enough power (as shown by analysis and demonstrated in the airplane) to maintain the INS in such condition that its full capability is restored upon the reactivation of the normal electrical supply.

(d) Upon the occurrence of reasonably probable failures or malfunctions in the system, the equipment must provide such visual, mechanical, or electrical output signals, or devices, as may be required to permit the flight crew to detect them.

4. Equipment and Equipment Installation—Doppler Radar Systems. (a) If an applicant elects to use a Doppler Radar System, it must be a dual system (including dual antennas or a combined antenna designed for dual operation), except that:

(1) A single operating transmitter with a standby capable of operation may be used in lieu of two operating transmitters.

(2) Single heading source information to both installations may be utilized, provided a compass comparator system is installed and operational procedures call for frequent cross-checks of all compass heading indicators by crewmembers.

(b) As determined by the Administrator and specified in the certificate holder's operations specifications, other navigational aids may be required to update the Doppler Radar for a particular operation. This may include Loran, Consol, DME, VOR, or ADF. When these aids are required, the cockpit arrangement must be such that all controls are accessible to each pilot seated at his duty station.

5. Training Programs. (a) The initial training program for Doppler Radar and Inertial Navigation Systems must include the following:

(1) Duties and responsibilities of flight crewmembers, dispatchers, and maintenance personnel.

(2) For pilots, instruction in the following:

(i) Theory and procedures, limitations, detection of malfunctions, preflight and in-flight testing, and cross-checking methods;

(ii) The use of computers, an explanation of all systems, compass limitations at high latitudes, a review of navigation, flight planning and applicable meteorology;

(iii) The methods for updating by means of reliable fixes; and

(iv) The actual plotting of fixes.

6. Equipment Accuracy and Reliability. (a) Each Inertial Navigation System must meet the following accuracy requirements, as appropriate:

(1) For flights up to 10 hours duration, no greater than 2 nautical miles per hour of circular error on 95 percent of flights completed is permitted.

(2) For flights over 10 hours duration, a tolerance of ±20 miles cross-track and ±25 miles along-track on 95 percent of flights completed is permitted.

(b) Compass heading information to the Doppler Radar must be maintained to an accuracy of ±1° and total system deviation must not exceed 2°.

(c) Each Doppler Radar System must meet accuracy requirements of ±20 miles cross-track and ±25 miles along-track for 95 percent of the flights completed.

A system that does not meet the requirements of this section will be considered a failed system.

7. Evaluation Program. (a) Approval by evaluation must be requested as a part of the application for operational approval of a Doppler Radar or Inertial Navigation System.

(b) The applicant must provide sufficient flights which show to the satisfaction of the Administrator his ability to use cockpit navigation in his operation.

(c) The Administrator bases his evaluation on the following:

(1) Adequacy of operational procedures.

(2) Operational accuracy and reliability of equipment and feasibility of the system with regard to proposed operations.

(3) Availability of terminal, gateway, area and en route ground-based aids to support the self-contained system.

(4) Acceptability of cockpit workload.

(5) Adequacy of flight crew qualifications.

(6) Adequacy of maintenance training and placement of spare parts.

After successful completion of evaluation demonstrations, FAA approval is indicated by issuance of amended operations specifications and en route flight procedures defining the new operation. Approval is limited to those operations for which the adequacy of the equipment and the feasibility of cockpit navigation has been satisfactorily demonstrated.

These amendments are proposed under the authority of sections 313(a), 601, 604, and 605 of the Federal Aviation Act of 1958 (49 U.S.C. 1354, 1421, 1424, and 1425), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on July 30, 1970.

R. S. SLIFF,
Acting Director,
Flight Standards Service.

[F.R. Doc. 70-10151; Filed, Aug. 4, 1970; 8:48 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 18808; RM-1532; FCC 70-828]

TELEVISION BROADCAST STATIONS TABLE OF ASSIGNMENTS

Report and Order Terminating Proceeding

1. In response to a petition of Alpha Broadcasting Corp. (Alpha), RM-1532, filed on November 21, 1969, the Commission adopted, on February 26, 1970, a notice of proposed rule making, released March 6, 1970 (FCC 70-226), in the above-entitled matter which presented for consideration petitioner's proposal to shift the educational reservation at Terre Haute, Ind., from Channel *26 to Channel 66 in order to make Channel *26 available for commercial service.

2. In this proceeding interested parties were afforded an opportunity to comment (after appropriate extensions of time had been issued) on or before April 20, 1970, and to reply to such comments on or before May 7, 1970. Formal comments and/or reply comments were timely filed expressing the views of: the Steering Committee of the Indiana Association of School Broadcasters; the Indiana Higher Education Telecommunication System; the National Educational Television and Radio Center; the Office of the State Superintendent of Public Instruction, State of Indiana; the National Association of Educational Broadcasters; the Joint Council on Educational Telecommunications; the Indiana Educational Television Association; the Corporation for Public Broadcasting; the Indiana Association of School Broadcasters; Mr. Ted Lucas; and Alpha Broadcasting Corp. (Alpha), the petitioner. Each of the filed comments and reply comments except that of Alpha (which supported the shift of the reservation)[1] opposed the proposal.

3. Terre Haute, with its population of 72,500, has four television channels assigned to it: 2 (WTWO, licensed), 10 (WTHI-TV, licensed), *26 (which has no application pending for its use), and 66 (which has two applications pending for its use—see footnote No. 1).

4. Petitioner's basic position (set out in paragraph 3 of the notice in this proceeding) is in short, that there is a definite technical and psychological advantage for a commercial station operating on a lower channel (26) as opposed to a higher channel (66). All of the other participants in this proceeding are also convinced of the technical and psychological desirability of broadcasting at the lower end of the television band. Petitioner in its comment again asserts that it is particularly important for a commercial station in Terre Haute to have the alleged advantages of a low assignment in light of the competition it expects to face from the two existing VHF services. Furthermore it maintains that its use of Channel *26 for commercial purposes would assist the development and success of an educational station located on Channel 66, in that its operation on Channel *26 would have more economic strength to survive. Its survival and successful commercial operation in the UHF band, it reasons, would attract the viewing public to UHF and that therefore the public

[1] Alpha and the Terre Haute Broadcasting Corp. both had pending applications for the commercial use of Channel 66 at Terre Haute—File Nos. BPCT-4117, Docket No. 18322 and BPCT-4086, Docket No. 18321, respectively. An initial decision in a comparative hearing released July 1, 1969, FCC 69D-39 held for Alpha. The decision was appealed to the Review Board which heard the matter on Apr. 21, 1970 and granted, on June 29, 1970 (FCC 70R-237) a construction permit for Channel 66 to Terre Haute Broadcasting Corp. This matter is presently subject to review by the Commission.

would install any necessary UHF antennas to receive its commercial service: the viewing public being so equipped would be capable of receiving any educational UHF service. Implicit in this argument is the belief that an educational service in itself on the UHF band will not be able to attract the people of Terre Haute.

5. In respect to petitioner's theory that an educational service on Channel 66 would receive necessary assistance through petitioner's operation on Channel 26 (set out above) we must note several considerations. First, the all-channel amendment to the Communications Act (Public Law 87–529, 76 Stat. 151) was adopted in 1962. Its purpose, which has been implemented by our rules, effective 1964, is to insure that all receivers used in the United States be capable of receiving both UHF and VHF broadcasts. This development has caused a substantial increase in UHF set circulation, so that it is estimated that more than 50 percent of U.S. homes have UHF reception capability, and this percentage will increase with time. Too, we have recently acted to insure that in the future UHF and VHF will be comparable in ease of tuning (decision in Docket No. 18433, released Feb. 2, 1970),[2] and we hope to explore in the future those steps which may be necessary to achieve comparability with respect to antennas. Second, there is a relatively new development in the Terre Haute market which tends to negate the need to some extent for special antennas for UHF reception in the area: the establishment and existence of a variety of community antenna systems in the area. They are indicated by Alpha as "* * * Bloomfield (39 miles southeast), Clinton (13 miles north), Dugger (27 miles south-southeast), Linton (32 miles south-southeast), and Sullivan (24 miles south), and franchises have been issued in a number of other communities, including Brazil (15 miles east)." Third, Alpha's position that educational service on the UHF band requires successful commercial service on the UHF band in order to develop an interest in educational television may be true to a certain extent in that it appears that educational programing has not yet been developed, in technique and approach, to the point that the many organizations working in educational television hope to reach. Of course, as funds become available to support the development of educational staffs with new and imaginative programing techniques it is expected that this problem will be solved and ETV programing will increase in attractiveness to its potential audience.

6. Both Alpha and the educational interests participating in this proceeding are of the view that an operation on Channel 26 will be less costly to construct and operate. The arguments set forth as to why the commercial service should be granted the alleged advantage of operating on Channel 26 have been set out and discussed in the previous paragraph. The educational interests are of the belief in brief that the alleged advantage should be retained for an educational service in Terre Haute. They point out that educational television can make a substantial contribution to our society and that the funds presently available for educational television are narrowly limited. It is suggested that one of the major reasons why many noncommercial educational channels have not yet been activated (for example Channel *26 at Terre Haute) is not disinterest but rather the lack of the necessary financial base for both construction and operation. Too, it must be kept in mind that any additional cost which may be attached to an educational operation on Channel 66 will ultimately be a detriment not to the private owner of a commercial station but to the tax paying public, in that the only present substantial sources of financial support for educational television are the State and Federal governments.

7. Concerning possible educational service to Terre Haute, petitioner brings to our attention that "Terre Haute and the surrounding areas, particularly to the east and south, are not now entirely without educational television service. In addition to CATV distribution * * *, the Grade B contour of the educational station at Bloomington (WTIU), some 48 miles to the southeast of the center of Terre Haute, falls over a portion of Vigo County, of which Terre Haute is the county seat, and within 13 miles of the center of the city * * *. The Grade B contour of WTIU (and other UHF nearby educational stations in Indiana and Illinois) may fall even closer to Terre Haute when recomputed under the revised rule (§ 73.684(c)) adopted by the report and order in Docket No. 17253, released April 3, 1970 (18 RR 2d 1703) * * *. The Grade B contour of the station soon to be activated in Indianapolis (WHYI) some 69 miles to the east, will fall about 35 miles from the center of Terre Haute in spite of the low antenna height of 250 feet above average terrain * * *. Even a moderate increase of the Bloomington station—at far less expense than the construction of a completely new station at Terre Haute—will provide excellent signals throughout the Terre Haute area * * *." In addition to the above Alpha directs our attention to the fact that educational programs now are being distributed by CATV to schools and subscribers in Terre Haute—in fact to 24 schools.[3] We are compelled to point out that petitioner's suggestion that Terre Haute is receiving, or can receive, adequate educational programing from other communities, has long been set aside as fallacious, in multiple policy statements of this Commission. We have repeatedly announced our policy to forward local programing in the broadcast services. Local programing is essential particularly in the field of education in that local programing can most effectively deal with the specific problems, needs, and interests in the community being served. Of course, a local educational TV station at Terre Haute (the county seat of Vigo County) will have the potential of ultimately (as funds become available) developing and originating programing which can best meet the requirements of that governmental center.

8. Alpha in its last argument emphasizes the point that if we do not permit commercial operation on Channel 26 that channel as a reserved channel will lie fallow because in its view there are presently no specific plans for its activation as an educational station. We note from the pleadings that there was active interest in putting the channel on the air in 1964 and that according to the comments of the Office of the Superintendent of Public Instruction, State of Indiana, it is following a progressive program of implementation of educational television in Indiana. As it states, it has already activated "* * * Channel *50, WCAE, St. John, Channel *22, WVUT, Vincennes, Channel *30, WTIU, Bloomington, and Channel *9, WNIN, Evansville. The fifth project is Channel *20, WFYI, Indianapolis, presently under construction. Under present recommendations, Channel *34, South Bend, will be the next facility to be activated * * *." From the facts presented in this proceeding we are convinced that as funds become available the Terre Haute educational reservation will also be activated, particularly if the channel to be activated at Terre Haute is, in the view of the educators, an efficient channel in respect to engineering and financial considerations, such as Channel *26. In concluding this discussion, we wish to draw attention to the policy we set forth in 1952 in our sixth report and order concerning TV allocations, i.e., that we were setting aside in our Table of TV Allocations a fair and equitable number of television channels for the development of a nationwide educational television system. This policy was established with full knowledge of the financial problems confronting educators and with the purpose of preserving the availability of sufficient broadcast facilities until they could be activated.

9. In view of the foregoing we have come to the conclusion that petitioner has not met the requirement of demonstrating that the public interest will be served by disturbing our present allocations in Terre Haute, Indiana, and that the public interest, convenience, and necessity is best met by denying its petition to shift the educational reservation presently on Channel *26 to Channel 66.

10. *Accordingly, it is ordered*, That the petition of Alpha Broadcasting Corp. filed with this Commission on November 21, 1969, requesting the shift of the

[2] By memorandum opinion and order (FCC 70–668) adopted June 24, 1970, we further modified Part 15 of our rules to clarify certain definitions and to establish new effective dates by which all-channel TV receivers must comply with our ease of tuning requirements.

[3] Although CATV is carrying educational programing in the Terre Haute area its educational service to individuals has the disadvantage of requiring the payment of a subscription fee. Its service to schools does not affect the problem before us in that the primary task of an educational television station is not in-school service but instead the provision of information and education to the general public.

noncommercial educational reservation of Channel *26 to Channel 66, both at Terre Haute, Ind., is denied.

11. *It is further ordered,* That this proceeding is terminated.

Adopted: July 29, 1970.

Released: July 31, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[4]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 70-10171; Filed, Aug. 4, 1970; 8:50 a.m.]

[47 CFR Part 73]

[Docket No. 18862]

TELEVISION BROADCAST STATIONS TABLE OF ASSIGNMENTS

Order Extending Time for Filing Comments and Reply Comments

1. This proceeding was begun by notice of proposed rule making (FCC 70-524) adopted May 20, 1970, released May 21, 1970, and published in the FEDERAL REGISTER on June 4, 1970 (35 F.R. 8670). The dates for filing comments and reply comments are presently July 27, 1970, and August 17, 1970, respectively.

2. On July 27, 1970, The New Jersey Public Broadcasting Authority (Authority) filed a request to extend the time for filing comments to August 4, 1970. Authority states that its technical consultants have ascertained that a suitable replacement for the proposed deletion of Channel *77 at Glen Ridge can be made through the substitution of Channel *50 at Little Falls, N.J. It further states that it plans to request rule making proceedings looking toward such substitution; therefore, additional time is required to complete a formal request.

3. We are of the view that the additional time is warranted and would serve the public interest. *Accordingly, it is ordered,* That the time for filing comments and reply comments in Docket 18862 is extended to and including August 4, 1970, and August 21, 1970, respectively.

4. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281(d)(8) of the Commission's rules.

Adopted: July 30, 1970.

Released: July 31, 1970.

JAMES O. JUNTILLA,
Acting Chief, Broadcast Bureau.

[F.R. Doc. 70-10172; Filed, Aug. 4, 1970; 8:50 a.m.]

[4] Chairman Burch absent, Commissioner Cox dissenting.

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1048]

[Ex Parte No. MC-37 (Sub-No. 4)]

METROPOLITAN NASHVILLE AND DAVIDSON COUNTY, TENN.

Proposed Limits of Commercial Zone

JULY 31, 1970.

Specific definition of the limits of the Commercial Zone of Metropolitan Government of Nashville and Davidson County, Tenn.

Petitioners: Columbia Motor Express, Callatin-Portland Freight Lines, Inc., and Murfreesboro Freight Line Co., Inc.; and Petitioners' Representative: Walter Harwood, 1822 Parkway Towers, Nashville, Tenn. 37219.

By joint petition filed June 4, 1970, petitioners request the Commission to institute a proceeding for the purpose of specifically defining the limits of the zone adjacent to and commercially a part of Nashville, Tenn., Davidson County, Tenn., and Metropolitan Government of Nashville and Davidson County, Tenn. The present limits of the Nashville commerical zone are prescribed by the general formula promulgated in Commercial Zones and Terminal Areas, 46 M.C.C. 665 (49 CFR 1408.101). Such formula provides that a city, such as Nashville, having a population greater than 100,000 and which has not been accorded individual consideration, shall have a commercial zone which consists of, and includes, the following: (a) The municipality itself; (b) all municipalities within the United States which are contiguous to the base municipality; (c) all unincorporated areas within 5 miles of its corporate limits and all of any other municipality and part of which is within 5 miles of the corporate limits of the base municipality; and (d) all municipalities wholly surrounded, or so surrounded except for a water boundary, by the base municipality.

Davidson County, not being a "municipality" within the contemplation of the act, has no prescribed commercial zone.

Petitioners assert that Nashville and Davidson County no longer exist as legal entities, and, in their stead now exists Metropolitan Government of Nashville and Davidson County (Metro).

The instant petition requests specific definition of the Metro commercial zone.

By its order of June 26, 1970, the Commission issued a notice of proposed rulemaking in Ex Parte Nos. MC-81 and MC-37 (Sub-No. 4A), specifically to consider the issues raised herein by petitioners, among others, notice of which appears below, and therefore the proceeding in Ex Parte No. MC-37 (Sub-No. 4), the subject of the instant petition, shall be consolidated therewith for further proceedings.

Notice to the general public of the matter herein under consideration will be given by depositing a copy of this notice in the Office of the Secretary of the Commission for public inspection and by filing a copy thereof with the Director, Office of the Federal Register.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[F.R. Doc. 70-10160; Filed, Aug. 4, 1970; 8:49 a.m.]

[49 CFR Part 1048]

[Ex Parte No. MC-81; Ex Parte No. MC-37 (Sub-No. 4A)[1]]

METROPOLITAN NASHVILLE AND DAVIDSON COUNTY, TENN.

Proposed Commercial Zones and Terminal Areas

JULY 31, 1970.

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 26th day of June 1970.

It appearing, that as disclosed by the record in No. MC-C-6310, Marvin Hayes Lines, Inc., et al. v. Gateway Transportation Co., Inc., 111 M.C.C. 778, the city of Nashville, Tenn., and Davidson County, Tenn., no longer appear to be legal entities, and, in their stead now exist the Metropolitan Government of Nashville and Davidson County, Tenn.;

It further appearing, that for the reasons noted in the above-cited report, it would be in the public interest to institute rulemaking proceedings to determine (1) the legal status and significance upon the Commission's regulatory functions of the Metropolitan Government of Nashville and Davidson County; (2) the proper interpretation of certificates, permits, and licenses authorizing service at Nashville, or those worded similarly as to points within specified mileages of Nashville; and (3) the limits, if any, of the commercial zone of the Metropolitan Government of Nashville and Davidson County, Tenn.;

It further appearing, that it is hereby proposed that certificates, permits and licenses authorizing service at Nashville, or points within a number of miles of Nashville, shall be interpreted as authorizing service to that area within, or within a number of miles of the last defined limits of the former city of Nashville;

And it further appearing, that it is also hereby proposed that the limits of the commercial zone of the Metropolitan Government of Nashville and Davidson County shall be coextensive with the limits of the Metropolitan Government and that all carriers presently holding authority to serve points within such area will be bound by this determination;

It is ordered, That joint proceedings

[1] The proceeding in Ex Parte No. MC-37 (Sub-No. 4), also published in this issue, has been consolidated with that herein for coincidental handling.

be, and they are hereby, instituted under the authority of part II of the Interstate Commerce Act, and sections 553 and 557 of the Administrative Procedure Act (1) to inquire into the present status of Nashville, Tenn., as a city; Davidson County, Tenn., as county; and Metropolitan Government of Nashville and Davidson County, Tenn., as a municipality; (2) to interpret certificates, permits, and licenses authorizing service at Nashville and Davidson County, Tenn.; (3) to interpret certificates, permits, and licenses authorizing service within specified mileages of Nashville or Davidson County, Tenn.; (4) to define the limits of the commercial zone of the Metropolitan Government of Nashville and Davidson County, Tenn.; and (5) to take such other and further action as the facts and circumstances may justify or require.

It is further ordered, That no oral hearing be scheduled for the receiving of testimony in these proceedings unless a need therefor should later appear, but that any interested person may participate in these proceedings by submitting for consideration written statements of facts,[2] views, and arguments on the subjects mentioned above, or any other subject pertinent to these proceedings.

It is further ordered, That any person intending to participate in these proceedings by submitted initial statements or reply statements shall notify the Commission, by filing with the secretary, Interstate Commerce Commission, Washington, D.C. 20423, on or before August 31, 1970, the original and one copy of a statement of his intention to participate; that the Commission shall then prepare and make available to all such persons a list containing the names and addresses of all parties to these proceedings, upon whom copies of all statements must be filed; and that at the time of the service of the list the Commission will fix the time within which initial statements and reply statements must be filed.

And it is further ordered, That a copy of this order be posted in the office of the secretary, Interstate Commerce Commission, for public inspection and that a copy be delivered to the Drector, Office of the Federal Register for publication in the FEDERAL REGISTER as noted to all interested persons.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[F.R. Doc. 70-10161; Filed, Aug. 4, 1970; 8:49 a.m.]

[2] In lieu of vertification under oath, any prepared statement may be subject to the following declaration: "I solemnly declare that I have examined the foregoing document and that the statements of fact contained therein are true." (Signature)

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[S 507]

CALIFORNIA

Opening of Lands Subject to Section 24 of the Federal Power Act

JULY 28, 1970.

By virtue of the authority contained in section 24 of the Federal Power Act of June 10, 1920 (41 Stat. 1075; 16 U.S.C. 818), as amended, and pursuant to the authority redelegated to me by the Manager, Sacramento Land Office, Bureau of Land Management, approved by the California State Director, effective August 12, 1969 (34 F.R. 13376), it is ordered as follows:

1. In DA-1073-California, the Federal Power Commission determined that the power value of the following described lands within Power Site Classification No. 116 will not be injured or destroyed by restoration to location, entry, or selection under the appropriate public land laws, subject to the provisions of section 24 of the Federal Power Act:

HUMBOLDT MERIDIAN

T. 16 N., R. 7 E.,
Sec. 15, lots 6, 9, 11, 12, and 21.

The areas described contain approximately 63.97 acres in Siskiyou County.

2. At 10 a.m. on August 27, 1970, the lands shall be open to such forms of disposition as may by law be made of national forest lands, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law, including the provisions of section 24 of the Federal Power Act.

The State of California has waived the preference right allowed it under section 24 of the Federal Power Act of June 10, 1920, supra.

Inquiries concerning the land should be addressed to the Manager, Land Office, Bureau of Land Management, Sacramento, Calif.

ELIZABETH H. MIDTBY,
Chief, Lands Adjudication Section.

[F.R. Doc. 70-10110; Filed, Aug. 4, 1970; 8:45 a.m.]

WYOMING

Notice of Termination of Proposed Withdrawal and Reservation of Lands

JULY 29, 1970.

Notice of a Bureau of Land Management application, Wyoming 15419, for withdrawal and reservation of lands for a National Girl Scout Center in Wyoming, was published as F.R. Doc. 68-11660, on pages 14477 and 14478 of the issue for September 26, 1968; amended by F.R. Doc. 68-12295, on page 15078 of the issue for October 9, 1968; and corrected on page 15883 of the October 26, 1968 issue. The Bureau partially cancelled the application in F.R. Doc. 69-1506 which published February 6, 1969 on page 1776. F.R. Doc. 69-6820, on page 9222 of the June 11, 1969, issue further amended the application. The Bureau now cancels its application insofar as it affects the following described lands:

SIXTH PRINCIPAL MERIDIAN

T. 47 N., R. 86 W.,
Sec. 4, lot 2, SW¼NE¼, and N½SE¼.

The area described contains 159.46 acres.

Therefore, pursuant to the regulations contained in 43 CFR 2091.2-5, such lands, at 10 a.m. on September 8, 1970, will be relieved of the segregative effect of the above-mentioned application.

DANIEL P. BAKER,
State Director.

[F.R. Doc. 70-10148; Filed, Aug. 4, 1970; 8:48 a.m.]

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration

WISCONSIN FEEDER PIG MARKETING COOPERATIVE ET AL.

Proposed Posting of Stockyards

The Chief, Registrations, Bonds, and Reports Branch, Packers and Stockyards Administration, U.S. Department of Agriculture, has information that the livestock markets named below are stockyards as defined in section 302 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 202), and should be made subject to the provisions of the Act.

Wisconsin Feeder Pig Marketing Cooperative, Sauke Centre, Minn.
East Mississippi Farmers Livestock Company, Philadelphia, Miss.
Beck & McCord Auction Co., Inc., Sikeston, Mo.
AgMarkets, Inc., Holdenville, Okla.
Morton Livestock Auction Co., Morton, Tex.
Waxahachie Live Stock Commission, Inc., Waxahachie, Tex.
Halifax County Livestock Market, Halifax, Va.
Modern Merit Market, Lancaster, Wis.

Notice is hereby given, therefore, that the said Chief, pursuant to authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), proposes to issue a rule designating the stockyards named above as posted stockyards subject to the provisions of the Act as provided in section 302 thereof.

Any person who wishes to submit written data, views, or arguments concerning the proposed rule, may do so by filing them with the Chief, Registrations, Bonds, and Reports Branch, Packers and Stockyards Administration, U.S. Department of Agriculture, Washington, D.C. 20250, within 15 days after publication in the FEDERAL REGISTER.

All written submissions made pursuant to this notice shall be made available for public inspection at such times and places in a manner convenient to the public business (7 U.S.C. 1.27(b)).

Done at Washington, D.C., this 30th day of July 1970.

G. H. HOPPER,
Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[F.R. Doc. 70-10122; Filed, Aug. 4, 1970; 8:45 a.m.]

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T.D. 70-174]

REIMBURSABLE SERVICES

Excess Cost of Preclearance Operations

JULY 29, 1970.

Notice is hereby given that pursuant to § 24.18(d), Customs Regulations (19 CFR 24.18(d)), the biweekly reimbursable excess costs for each preclearance installation are determined to be as set forth below and will be effective with the pay period beginning August 9, 1970.

Installation:	*Biweekly excess cost*
Montreal, Canada	$2,921
Toronto, Canada	4,481
Kindley Field, Bermuda	846
Nassau, Bahama Islands	5,898
Vancouver, Canada	2,154
Winnipeg, Canada	573

[SEAL] ROBERT V. MCINTYRE,
Acting Commissioner of Customs.

[F.R. Doc. 70-10152; Filed, Aug. 4, 1970; 8:48 a.m.]

Office of the Secretary

TUNERS (OF THE TYPE USED IN CONSUMER ELECTRONIC PRODUCTS) FROM JAPAN

Determination of Sales at less than Fair Value; Amendment

JULY 31, 1970.

The concluding sentence of the third paragraph of the Determination of Sales at Less Than Fair Value with respect to Tuners (of the type used in consumer electronic products) from Japan, published in the FEDERAL REGISTER of July 15, 1970 (35 F.R. 11304, F.R. Doc. 70-9048), is hereby amended to read: "Excluded

from this determination are complete stereophonic tuners which are a consumer product themselves, but not excluded are modular-type stereophonic tuners, which are intended to become a component part of such stereophonic tuners."

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

[F.R. Doc. No. 10205; Filed, Aug. 3, 1970; 12:46 p.m.]

DEPARTMENT OF COMMERCE

Business and Defense Services Administration

ALBANY MEDICAL COLLEGE ET AL.

Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Articles

The following is a consolidated decision on 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) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C. 20230.

Decision. Applications denied. Applicants have failed to establish that instruments or apparatus of equivalent scientific value to the foreign articles, for such purposes as the foreign articles are intended to be used, are not being manufactured in the United States.

Reasons. Section 602.5(e) of the regulations provides in pertinent part:

> The applicant shall on or before the 20th day following the date of such notice [of denial without prejudice to resubmission], inform the Administrator whether it intends to resubmit another application for the same article to which the denied application relates. The applicant shall then resubmit the new application on or before the 90th day following the date of the notice of denial without prejudice to resubmission, unless an extension of time is granted by the Administrator in writing prior to the expiration of the 90-day period. * * * If the applicant fails within the applicable time periods specified above, to either (1) inform the Administrator whether it intends to resubmit another application for the same article to which the denial without prejudice to resubmission relates, or (2) resubmit the new application, the prior denial without prejudice to resubmission shall have the effect of a final decision by the Administrator on the application within the context of the paragraph (d) of this section.

The meaning of the subsection is that should an applicant either fail to notify the Administrator of its intent to resubmit another application for the same article to which the denial without prejudice relates within the 20-day period, or fails to resubmit a new application within the 90-day period, the prior denial without prejudice to resubmission will have the effect of a final denial of the application.

None of the applicants to which this consolidated decision relates has satisfied the requirements set forth above, therefore, the prior denials without prejudice have the effect of a final decision denying their respective applications.

Section 602.5(e) further provides:

> * * * the Administrator shall submit a summary of the prior denial without prejudice to resubmission to the FEDERAL REGISTER for publication, to the Commissioner of Customs, and to the applicant.

Each of the prior denials without prejudice to resubmission to which this consolidated decision relates was based on the failure of the respective applicants to submit the required documentation, including a completely executed application form, in sufficient detail to allow the issue of "scientific equivalency" to be determined by the Administrator.

Docket No. 69-00093-33-54500. Applicant: Albany Medical College of Union University, 47 New Scotland Avenue, Albany, N.Y. 12208. Article: Floor model slit lamp 900. Date of denial without prejudice to resubmission: January 16, 1968.

Docket No. 69-00114-98-87500. Applicant: University of South Florida, 4202 Fowler Avenue, Tampa, Fla. 33620. Article: Wave analyzer. Date of denial without prejudice to resubmission: December 18, 1968.

Docket No. 69-00125-33-46500. Applicant: St. Mary's Hospital, 2414 South Seventh Street, Minneapolis, Minn. 55406. Article: LKB Ultrotome III ultramicrotome and table-knifemake combination, Models 8800A, 7800B. Date of denial without prejudice to resubmission: October 31, 1968.

Docket No. 69-00136-70-46040. Applicant: Massachusetts Institute of Technology, 77 Massachusetts Avenue, Cambridge, Mass. 02139. Article: Electron miscroscope EM 100C. Date of denial without prejudice to resubmission: January 29, 1969.

Docket No. 69-00151-33-46040. Applicant: University of California, 2549 Life Science Building, Berkeley, Calif. 94720. Article: Electron miscroscope, Model Elmiskop IA. Date of denial without prejudice to resubmission: February 24, 1969.

Docket No. 69-00190-33-46040. Applicant: State University College at Plattsburgh, Plattsburgh, N.Y. 12901. Article: Electron microscope, Model Elmiskop IA and accessories. Date of denial without prejudice to resubmission: February 25, 1969.

Docket No. 69-00240-33-46040. Applicant: University of California, Post Office Box 1500, Berkeley, Calif. 94701. Article: Electron microscope, Model Elmiskop 101. Date of denial without prejudice to resubmission: February 28, 1969.

Docket No. 69-00254-33-46040. Applicant: Gulf Coast Research Laboratory, Ocean Springs, Miss. 39564. Article: Electron microscope, Model Elmiskop IA. Date of denial without prejudice to resubmission: April 14, 1969.

Docket No. 69-00256-01-77030. Applicant: Moorhead State College, Moorhead, Minn. 56560. Article: NMR spectrometer, Model JNM-MH-60. Date of denial without prejudice to resubmission: January 10, 1969.

Docket No. 69-00259-33-28200. Applicant: University of Pittsburgh, Fifth Avenue and Bigelow Boulevard, Pittsburgh, Pa. 15213. Article: ESR spectrometer system, Model B-ER-418S. Date of denial without prejudice to resubmission: July 15, 1969.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70-10123; Filed, Aug. 4, 1970; 8:46 a.m.]

CLEVELAND STATE UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00664-99-34000. Applicant: Cleveland State University, 1983 East 24th Street, Cleveland, Ohio 44115. Article: Motor generator sets, four each. Manufacturer: Canron, Ltd., Canada. Intended use of article: The article will be used in Electrical Machinery I and II, the study of motor and generator characteristics. Students are to be taught to interconnect and wire these generators to determine their characteristics and capabilities.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article for the purposes for which the foreign article is intended to be used is being manufactured in the United States.

Reasons: The foreign article provides the capabilities of operation as a three-phase alternating current (a.c.) machine and flexibility with respect to its stator windings. The most closely comparable domestic instrument, the Generalized Machine Set, manufactured by Westinghouse Electric Corp., does not provide flexibility with respect to the stator windings or the capability of operation as a three-phase a.c. machine. The capabilities for three-phase a.c. operation and flexibility with respect to the stator windings are pertinent to the purpose for

which the foreign article is intended to be used. We are advised by the National Bureau of Standards in a memorandum dated June 25, 1970, that it knows of no other domestic instrument or apparatus that can be used for the intended purpose.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70-10124; Filed, Aug. 4, 1970; 8:46 a.m.]

MICHIGAN STATE UNIVERSITY ET AL.

Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Articles

The following is a consolidated decision on 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) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C. 20230.

Decision. Applications denied. Applicants have failed to establish that instruments or apparatus of equivalent scientific value to the foreign articles, for such purposes as the foreign articles are intended to be used, are not being manufactured in the United States.

Reasons. Section 602.5(e) of the regulations provides in pertinent part:

> The applicant shall on or before the 20th day following the date of such notice [of denial without prejudice to resubmission], inform the Administrator whether it intends to resubmit another application for the same article to which the denied application relates. The applicant shall then resubmit the new application on or before the 90th day following the date of the notice of denial without prejudice to resubmission, unless an extension of time is granted by the Administrator in writing prior to the expiration of the 90-day period. * * * If the applicant fails within the applicable time periods specified above, to either (1) inform the Administrator whether it intends to resubmit another application for the same article to which the denial without prejudice to resubmission relates, or (2) resubmit the new application, the prior denial without prejudice to resubmission shall have the effect of a final decision by the Administrator on the application within the context of the paragraph (d) of this section.

The meaning of the subsection is that should an applicant either fail to notify the Administrator of its intent to resubmit another application for the same article to which the denial without prejudice relates within the 20-day period, or fails to resubmit a new application within the 90-day period, the prior denial without prejudice to resubmission will have the effect of a final denial of the application.

None of the applicants to which this consolidated decision relates has satisfied the requirements set forth above, therefore, the prior denials without prejudice have the effect of a final decision

Section 602.5(e) further provides:

> * * * the Administrator shall submit a summary of the prior denial without prejudice to resubmission to the FEDERAL REGISTER for publication, to the Commissioner of Customs, and to the applicant.

Each of the prior denials without prejudice to resubmission to which this consolidated decision relates was based on the failure of the respective applicants to submit the required documentation, including a completely executed application form, in sufficient detail to allow the issue of "scientific equivalency" to be determined by the Administrator.

Docket No. 68-00220-33-46500. Applicant: Michigan State University, East Lansing, Mich. 48823. Article: LKB 8800A Ultrotome III Ultramicrotome. Date of denial without prejudice to resubmission: January 31, 1967.

Docket No. 68-00228-33-77040. Applicant: Research Triangle Institute, Post Office Box 12194, Research Triangle Park, N.C. 27709. Article: Mass spectrometer, Model MS-902. Date of denial without prejudice to resubmission: May 2, 1968.

Docket No. 68-00231-33-77040. Applicant: University of Colorado Medical Center, 4200 East Ninth Avenue, Denver, Colo. 80220. Article: Mass spectrometer, Model MS-9. Date of denial without prejudice to resubmission: February 7, 1968.

Docket No. 68-00234-33-46500. Applicant: Tulane University, 1430 Tulane Avenue, New Orleans, La. 70112. Article: Two diamond knives and two adaptors for ultrathin sectioning. Date of denial without prejudice to resubmission: February 14, 1968.

Docket No. 68-00242-01-77040. Applicant: University of Missouri, Rolla, Mo. 65401. Article: Mass spectrometer, Model Atlas GD-150. Date of denial without prejudice to resubmission: March 26, 1968.

Docket No. 68-00277-33-90000. Applicant: University of Miami School of Medicine, Jackson Memorial Hospital, 1700 Northwest 10th Avenue, Miami, Fla. 33136. Article: Koncentra ceiling crane. Date of denial without prejudice to resubmission: February 28, 1968.

Docket No. 68-00314-01-77040. Applicant: Massachusetts Institute of Technology, 77 Massachusetts Avenue, Cambridge, Mass. 02139. Article: Mass spectrometer, Model RMU-6E. Date of denial without prejudice to resubmission: April 22, 1968.

Docket No. 68-00329-33-77040. Applicant: Evanston Hospital, 2650 Ridge Avenue, Evanston, Ill. 60201. Article: Research mass spectrometer-universal, Model RMU-6. Date of denial without prejudice to resubmission: May 2, 1968.

Docket No. 68-00342-55-61600. Applicant: Regents of the University of Minnesota, Minneapolis, Minn. 55455. Article: Two plankton recorders and internal mechanisms. Date of denial without prejudice to resubmission: April 2, 1968.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70-10125; Filed, Aug. 4, 1970; 8:46 a.m.]

STATE UNIVERSITY OF NEW YORK, BUFFALO, ET AL.

Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Articles

The following is a consolidated decision on 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) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C. 20230.

Decision. Applications denied. Applicants have failed to establish that instruments or apparatus of equivalent scientific value to the foreign articles, for such purposes as the foreign articles are intended to be used, are not being manufactured in the United States.

Reasons. Section 602.5(e) of the regulations provides in pertinent part:

> The applicant shall on or before the 20th day following the date of such notice [of denial without prejudice to resubmission], inform the Administrator whether it intends to resubmit another application for the same article to which the denied application relates. The applicant shall then resubmit the new application on or before the 90th day following the date of the notice of denial without prejudice to resubmission, unless an extension of time is granted by the Administrator in writing prior to the expiration of the 90-day period * * * If the applicant fails within the applicable time periods specified above, to either (1) inform the Administrator whether it intends to resubmit another application for the same article to which the denial without prejudice to resubmission relates, or (2) resubmit the new application, the prior denial without prejudice to resubmission shall have the effect of a final decision by the Administrator on the application within the context of the paragraph (d) of this section.

The meaning of the subsection is that should an applicant either fail to notify the Administrator of its intent to resubmit another application for the same article to which the denial without prejudice relates within the 20-day period, or fails to resubmit a new application within the 90-day period, the prior denial without prejudice to resubmission will have the effect of a final denial of the application.

None of the applicants to which this consolidated decision relates has satisfied the requirements set forth above,

therefore, the prior denials without prejudice have the effect of a final decision denying their respective applications.

Section 602.5(e) further provides:

> * * * the Administrator shall submit a summary of the prior denial without prejudice to resubmission to the FEDERAL REGISTER for publication, to the Commissioner of Customs, and to the applicant.

Each of the prior denials without prejudice to resubmission to which this consolidated decision relates was based on the failure of the respective applicants to submit the required documentation, including a completely executed application form, in sufficient detail to allow the issue of "scientific equivalency" to be determined by the Administrator.

Docket No. 68-00532-33-64700. Applicant: State University of New York at Buffalo, 1803 Elmwood Avenue, Buffalo, N.Y. 14207. Article: Polygraph recording unit, Model Mingograf-81. Date of denial without prejudice to resubmission: July 3, 1968.

Docket No. 68-00534-33-46500. Applicant: University of North Carolina at Chapel Hill School of Medicine, Chapel Hill, N.C. 27514. Article: Ultramicrotome, Model LKB 4800A. Date of denial without prejudice to resubmission: July 30, 1968.

Docket No. 68-00543-33-46500. Applicant: The Albany Medical College of Union University, 47 New Scotland Avenue, Albany, N.Y. 12208. Article: Ultramicrotome, Model "OmU2". Date of denial without prejudice to resubmission: July 30, 1968.

Docket No. 68-00549-01-77040. Applicant: Colorado State University, Fort Collins, Colo. 80521. Article: Mass spectrometer, Model MS-1201. Date of denial without prejudice to resubmission: September 23, 1968.

Docket No. 68-00552-33-46040. Applicant: University of California, 2549 Sciences Building, Berkeley, Calif. 94720. Article: Electron microscope, Model HS-8. Date of denial without prejudice to resubmission: June 4, 1968.

Docket No. 68-00559-33-79200. Applicant: Veterans Administration Hospital, 42d Avenue and Clement Street, San Francisco, Calif. 94121. Article: Electric water still, Type 3. Date of denial without prejudice to resubmission: August 13, 1968.

Docket No. 68-00560-33-68200. Applicant: The University of Texas Southwestern Medical School at Dallas, 5323 Harry Hines Boulevard, Dallas, Tex. 75235. Article: Infusion pump. Date of denial without prejudice to resubmission: July 29, 1968.

Docket No. 68-00568-33-46500. Applicant: University of Michigan, 1011 North University Avenue, Ann Arbor, Mich. 48104. Article: Ultramicrotome, Model "OmU2". Date of denial without prejudice to resubmission: July 30, 1968.

Docket No. 68-00573-01-7830. Applicant: DHEW, U.S. Food and Drug Administration, 599 Delaware Avenue, Buffalo, N.Y. 14202. Article: Spectrophotometer, Model 225. Date of denial without prejudice to resubmission: September 24, 1968.

Docket No. 68-00580-67-78010. Applicant: U.S. Bureau of Mines, Tuscaloosa Metallurgy Research Laboratory, Post Office Box L, University, Ala. 35486. Article: Spectrophotometer, Model 140. Date of denial without prejudice to resubmission: June 12, 1968.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70-10126; Filed, Aug. 4, 1970; 8:46 a.m.]

UNIVERSITY OF WISCONSIN ET AL.

Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Articles

The following is a consolidated decision on 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) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C. 20230.

Decision. Applications denied. Applicants have failed to establish that instruments or apparatus of equivalent scientific value to the foreign articles, for such purposes as the foreign articles are intended to be used, are not being manufactured in the United States.

Reasons. Section 602.5(e) of the regulations provides in pertinent part:

> The applicant shall on or before the 20th day following the date of such notice [of denial without prejudice to resubmission], inform the Administrator whether it intends to resubmit another application for the same article to which the denied application relates. The applicant shall than resubmit the new application on or before the 90th day following the date of the notice of denial without prejudice to resubmission, unless an extension of time is granted by the Administrator in writing prior to the expiration of the 90-day period. * * * If the applicant fails within the applicable time periods specified above, to either (1) inform the Administrator whether it intends to resubmit another application for the same article to which the denial without prejudice to resubmission relates, or (2) resubmit the new application, the prior denial without prejudice to resubmission shall have the effect of a final decision by the Administrator on the application within the context of the paragraph (d) of this section.

The meaning of the subsection is that should an applicant either fail to notify the Administrator of its intent to resubmit another application for the same article to which the denial without prejudice relates within the 20-day period, or fails to resubmit a new application within the 90-day period, the prior denial without prejudice to resubmission will have the effect of a final denial of the application.

None of the applicants to which this consolidated decision relates has satisfied the requirements set forth above, therefore, the prior denials without prejudice have the effect of a final decision denying their respective applications.

Section 602.5(e) further provides:

> * * * the Administrator shall submit a summary of the prior denial without prejudice to resubmission to the FEDERAL REGISTER for publication, to the Commissioner of Customs, and to the applicant.

Each of the prior denials without prejudice to resubmission to which this consolidated decision relates was based on the failure of the respective applicants to submit the required documentation, including a completely executed application form, in sufficient detail to allow the issue of "scientific equivalency" to be determined by the Administrator.

Docket No. 68-00592-33-43420. Applicant: University of Washington, Seattle, Wash. 98105. Article: Micromanipulators, Model BM-5. Date of denial without prejudice to resubmission: August 14, 1968.

Docket No. 68-00604-00-41895. Applicant: University of Vermont, College of Medicine, 371 Pearl Street, Burlington, Vt. 05401. Article: Nikkor lens. Date of denial without prejudice to resubmission: October 16, 1968.

Docket No. 68-00605-33-47540. Applicant: Health Research, Inc., Roswell Park Division, 666 Elm Street, Buffalo, N.Y. 14203. Article: Monochromator, Model 20. Date of denial without prejudice to resubmission: September 6, 1968.

Docket No. 68-00615-33-29595. Applicant: Maryland State Department of Health, 301 West Preston Street, Baltimore, Md. 21201. Article: Extractor hooks (two each). Date of denial without prejudice to resubmission: October 21, 1968.

Docket No. 68-00631-33-46500. Applicant: Iowa State University, Ames, Iowa 50010. Article: Ultramicrotome, Model "OmU2". Date of denial without prejudice to resubmission: July 2, 1968.

Docket No. 68-00685-33-46500. Applicant: Shriners Burns Institute, University of Texas Medical Branch, Galveston, Tex. 77550. Article: Ultramicrotome Ultrotome III, Model LKB 8800A. Date of denial without prejudice to resubmission: August 2, 1968.

Docket No. 69-00017-33-46500. Applicant: University of Michigan, 1011 North University Street, Ann Arbor, Mich. 48104. Article: Ultramicrotome, Model "OmU2". Date of denial without prejudice to resubmission: February 11, 1969.

Docket No. 69-00053-33-54500. Applicant: Tulane University School of Medicine, New Orleans, La. 70112. Article: Tubinger perimeter. Date of denial without prejudice to resubmission: December 6, 1968.

Docket No. 69-00054-01-30800. Applicant: State University of New York at Buffalo, 100 High Street, Buffalo, N.Y. 14203. Article. UltraRac fraction collector, Model LKB 7000A. Date of denial without prejudice to resubmission: November 27, 1968.

Docket No. 69-00068-33-46040. Applicant: The University of Texas at Austin, Box 7306, University Station, Austin, Tex.

78712. Article: Electron microscope Elmiskop IA and accessories. Date of denial without prejudice to resubmission: January 29, 1969.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70-10127; Filed, Aug. 4, 1970; 8:46 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[DESI 0110 NV]

BENZATHINE PENICILLIN G AND PROCAINE PENICILLIN G IN AQUEOUS SUSPENSION

Drugs for Veterinary Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences–National Research Council, Drug Efficacy Study Group, on the following preparations:

1. Bicillin Fortified; each cubic centimeter contains 150,000 units of benzathine penicillin G and 150,000 units procaine penicillin G; by Wyeth Laboratories Inc., Box 8299, Philadelphia, Pa. 19101.

2. 600 Bicillin Fortified; each cubic centimeter contains 300,000 units of benzathine penicillin G and 300,000 units procaine penicillin G; by Wyeth Laboratories Inc.

3. Longicil Fortified; each cubic centimeter contains 150,000 units benzathine penicillin G and 150,000 units procaine penicillin G; by Fort Dodge Laboratories, Inc., Fort Dodge, Iowa 50501.

The Academy evaluated these drugs as probably effective for the treatment of animal infections when such infections are caused by pathogens sensitive to penicillin.

The Academy stated: (1) More information is needed on the production of effective blood levels; (2) the dosages appear to be inconsistent; and (3) each disease claim should be properly qualified as "appropriate for use in (name of disease) caused by pathogens sensitive to (name of drug)." If the disease cannot be so qualified, the claim must be dropped.

The Food and Drug Administration concurs in the Academy's findings.

In accordance with § 3.25 *Antibiotics used in food-producing animals*, an order published in the FEDERAL REGISTER of May 17, 1969 (34 F.R. 7849) provided that items covered by § 146a.86 *Benzathine penicillin G and procaine penicillin for aqueous injection*, bear the statement "Warning—Not for use in animals which are raised for food production."

This announcement is published (1) to inform the holders of new animal drug applications of the findings of the Academy and the Food and Drug Administration and (2) to inform all interested persons that such articles to be marketed must be the subject of approved new animal drug applications and otherwise comply with all other requirements of the Federal Food, Drug, and Cosmetic Act.

Holders of the new animal drug applications are provided 6 months from the date of publication of this announcement in the FEDERAL REGISTER to submit adequate documentation in support of the labeling used.

Each holder of a new animal drug application which became effective prior to October 10, 1962, is requested to submit updating information as needed to make the application current with regard to manufacture of the drug, including information on drug components and composition, and also including information regarding manufacturing methods, facilities, and controls, in accordance with the requirements of section 512 of the act.

Written comments regarding this announcement, including requests for an informal conference, may be addressed to the Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852.

The holders of the new animal drug applications for the listed drugs have been mailed a copy of the NAS–NRC report. Any other interested person may obtain a copy by writing to the Food and Drug Administration, Press Relations Staff, 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 512, 52 Stat. 1050–51, 82 Stat. 343–51; 21 U.S.C. 352, 360b) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: July 24, 1970.

SAM D. FINE,
Acting Associate Comissioner for Compliance.

[F.R. Doc. 70-10139; Filed, Aug. 4, 1970; 8:47 a.m.]

[DESI 13029V]

CERTAIN DRUG PRODUCTS CONTAINING TYLOSIN WITH VITAMINS

Drugs for Veterinary Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following preparations marketed by Corvel, Inc., and Elanco Products Co., Divisions of Eli Lilly and Co., Post Office Box 618, Indianapolis, Ind. 46206.

1. Tylocine with Vitamins; each 250 grams contain 25 grams tylosin activity (present as tylosin base), 600,000 I.U. of vitamin A palmitate, 75,000 I.U. of vitamin D, 150 I.U. of vitamin E, 400 milligrams of thiamine mononitrate, 800 milligrams of riboflavin, 4,800 milligrams of niacin, 3,000 milligrams of *d*-pantothenic acid (present as *dl*-calcium pantothenate), 480 milligrams of pyridoxine hydrochloride, 3 milligrams of vitamin B_{12} activity, and 120 milligrams of folic acid.

2. Tylan Plus (tylosin with vitamins); each 250 grams contains 25 grams tylosin activity (present as the tylosin base), 600,000 I.U. of vitamin A palmitate, 75,000 I.U. of vitamin D, 150 I.U. of vitamin E, 400 milligrams of thiamine mononitrate, 800 milligrams of riboflavin, 4,800 milligrams of niacin, 3,000 milligrams of *d*-pantothenic acid (present as *dl*-calcium pantothenate), 480 milligrams of pyridoxine hydrochloride, 3 milligrams of vitamin B_{12} activity, and 120 milligrams of folic acid.

The Academy evaluated these preparations intended to be used in drinking water as probably not effective for the prevention and treatment of swine dysentery. The Academy stated: (1) Substantial evidence was not presented to establish that each ingredient designated as active makes a contribution to the total effect claimed for the drug combination; (2) each disease claim should be properly qualified as "appropriate for use in (name of disease) caused by pathogens sensitive to (name of drug)." If the disease claim cannot be so qualified the claim must be dropped; (3) the label should warn that treated animals must actually consume enough medicated water to provide a therapeutic dose under the conditions that prevail and as a precaution the label should state the desired oral dose per unit of animal weight per day for each species as a guide to effective use of the preparation in drinking water; (4) claims made regarding "for prevention of" or "to prevent" should be replaced with "as an aid in the control of" or "to aid in the control"; and (5) the stability of these preparations with regard to vitamins is questioned.

The Food and Drug Administration concurs in the findings of the Academy.

This evaluation is concerned only with these drugs' effectiveness and safety to the animal to which administered. It does not take into account the safety for food use of food derived from drug-treated animals. Nothing herein will constitute a bar to further proceedings with respect to questions of safety of the drugs or their metabolites as residues in food products derived from treated animals.

This announcement is published (1) to inform the holders of new animal drug applications of the findings of the Academy and the Food and Drug Administration and (2) to inform all interested persons that such articles to be marketed must be the subject of approved new animal drug applications and otherwise comply with all other requirements of the Federal Food, Drug, and Cosmetic Act.

Holders of new animal drug applications are provided 6 months from the date of publication hereof in the FEDERAL REGISTER to submit adequate documentation in support of the labeling used.

Each holder of a new animal drug application which became effective prior to October 10, 1962, is requested to submit updating information as needed to make the application current with regard to manufacture of the drug, including information on drug components and composition, and also including information regarding manufacturing methods, facilities, and controls, in accordance with the requirements of section 512 of the act.

Written comments regarding this announcement, including requests for an informal conference, may be addressed to the Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852.

The holder of the new animal drug application for the listed drugs has been mailed a copy of the NAS–NRC report. Any other interested person may obtain a copy by writing to the Food and Drug Administration, Press Relations Staff, 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 512, 52 Stat. 1050–51, 82 Stat. 343–51; 21 U.S.C. 352, 360b) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: July 24, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70–10143; Filed, Aug. 4, 1970; 8:47 a.m.]

[DESI 0181NV]

CERTAIN PREMIXES CONTAINING BACITRACIN

Drugs for Veterinary Use; Drug Efficacy Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following preparations:

1. Turkey Grower Premix No. 13410; each pound contains 1.25 grams of bacitracin (from zinc bacitracin); by Roche Chemical Division, Hoffmann-La Roche Inc., Nutley, N.J. 07110.

2. P-G-Q Turkey Premix ZB; each ton contains 1,500 grams of bacitracin (from zinc bacitracin); by Roche Chemical Division, Hoffmann-La Roche Inc.

3. Turkey Starter Premix No. 10735; each pound contains 1 gram of bacitracin (from zinc bacitracin); by Roche Chemical Division, Hoffmann-La Roche Inc.

4. Johnson Turkey No. 1; each pound contains 2 grams of bacitracin (from zinc bacitracin); by Roche Chemical Division, Hoffman-La Roche Inc.

5. 1–66 Pullet Starter Premix; each ton contains 1,000 grams of bacitracin (from zinc bacitracin); by Roche Chemical Division, Hoffmann-La Roche Inc.

6. Kimber No. 112–M Starter Grower Premix; each pound contains 1 gram of bacitracin (from zinc bacitracin); by Roche Chemical Division, Hoffmann-La Roche Inc.

7. Chick Starter & Grower F–1163; each pound contains 1 gram of bacitracin (from zinc bacitracin), and 0.24 gram of penicillin equivalent to 0.4 gram of procaine penicillin; by Roche Chemical Division, Hoffmann-La Roche Inc.

8. Broiler Finisher Premix No. 11043; each pound contains 1 gram of bacitracin (from zinc bacitracin), and 0.6 gram of penicillin (from procaine penicillin); by Agricultural Division, Hoffmann-La Roche Inc.

9. Starter & Broiler Premix; each pound contains 1.2 grams of bacitracin (from zinc bacitracin), and 0.24 gram of penicillin equivalent to 0.4 gram of procaine penicillin; by Roche Chemical Division, Hoffman-La Roche Inc.

10. Grower Premix; each ton contains 1,200 grams of bacitracin (from zinc bacitracin), and 240 grams of penicillin equivalent to 400 grams of procaine penicillin; by Roche Chemical Division, Hoffman-La Roche Inc.

11. Vilas Turkey Premix No. 3; each ton contains 1,000 grams of bacitracin (from zinc bacitracin), and 240 grams of penicillin equivalent to 400 grams of procaine penicillin; by Roche Chemical Division, Hoffmann-La Roche Inc.

12. Custom Vitamin & Antibiotic Premix for Swine Finishing Feed A; each pound contains 1.5 grams of bacitracin (from zinc bacitracin), 0.3 gram penicillin (procaine penicillin 0.5 gram) and vitamins; by Roche Chemical Division, Hoffmann-La Roche Inc.

13. Midcontinent Swine Vitamin Premix; each pound contains 1.5 grams of bacitracin (from zinc bacitracin), 0.504 gram of penicillin (procaine penicillin 0.84 gram) and vitamins; by Roche Chemical Division, Hoffmann-La Roche Inc.

14. Premix No. 12 Medicated; each pound contains 1.5 grams of bacitracin (from zinc bacitracin) and 6.25 percent of zoalene (3,5-dinitro-*o*-toluamide); by Roche Chemical Division, Hoffmann-La Roche Inc.

The Academy evaluated these premixes as probably effective for producing faster gains and/or improved feed efficiency in poultry. The Academy's report also states: (1) More information is needed to support this use of bacitracin in swine; (2) when using bacitracin alone, a minimum of 25 grams of bacitracin per ton of complete feed is necessary for improving rate of gain and/or feed efficiency for poultry; (3) claims for growth promotion or stimulation are disallowed, however, claims for faster gains and/or feed efficiency should be stated as "may result in faster gains and/or improved feed efficiency under appropriate conditions in chickens and turkeys"; and (4) substantial evidence was not presented to establish that each ingredient designated as active makes a contribution to the total effect claimed for the drug combination.

The Food and Drug Administration concurs in the findings of the Academy, however, the Administration concludes the appropriate claim for faster weight gains and improved feed efficiency should be "For increased rate of weight gain and improved feed efficiency for (under appropriate conditions of use)."

This evaluation is concerned only with these drugs' effectiveness and safety to the animal to which administered. It does not take into account the safety for food use of food derived from drug-treated animals. Nothing herein will constitute a bar to further proceedings with respect to questions of safety of the drugs or their metabolites as residues in food products derived from treated animals.

This announcement is published (1) to inform manufacturers of the subject drugs of the findings of the Academy and the Food and Drug Administration and (2) to inform all interested persons that such articles to be marketed must be the subject of approved new animal drug applications and otherwise comply with all other requirements of the Federal Food, Drug, and Cosmetic Act.

Manufacturers of the subject drugs are provided 6 months from the date of publication of this announcement in the FEDERAL REGISTER to submit adequate documentation in support of the labeling used.

Each holder of a new animal drug application which became effective prior to October 10, 1962, is required to submit updating information as needed to make the application current with regard to manufacture of the drug, including information on drug components and composition, and also including information regarding manufacturing methods, facilities, and controls, in accordance with the requirements of section 512 of the act.

Written comments regarding this announcement, including requests for an informal conference, may be addressed to the Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852.

The manufacturer of the listed drugs has been mailed a copy of the NAS–NRC report. Any other interested person may obtain a copy by writing to the Food and Drug Administration, Press Relations Staff, 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 512, 52 Stat. 1050–51, 82 Stat. 343–51; 21 U.S.C. 352, 360b) and under authority delegated to the commissioner of Food and Drugs (21 CFR 2.120).

Dated: July 24, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70–10140; Filed, Aug. 4, 1970; 8:47 a.m.]

[DESI 5951V]

CERTAIN PRODUCTS CONTAINING SULFATHIAZOLE

Drugs for Veterinary Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the

National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following preparations by Dr. Mayfield Laboratories, 1209 South Main Street, Charles City, Iowa 50616:

1. Dr. Mayfield Calf Scour Tablets; each tablet contains 12 grains of sulfathiazole together with the following items which are listed as inert ingredients; aluminum sulphate, arsenic trioxide 0.14 grain, cobalt sulphate, copper 0.51 grain, fenugreek, iron oxide, magnesium carbonate, manganese sulphate, mustard, potassium iodide, anise seed, ammonium chloride, dextrose, kaolin, starch, sterotex, and talc.

2. Dr. Mayfield Poultry Sulfa Tablets; each tablet contains 12 grains of sulfathiazole together with the following items which are listed as inert ingredients; aluminum sulphate, arsenic trioxide 0.14 grain, cobalt sulphate, copper 0.51 grain, fenugreek, iron oxide, magnesium carbonate, manganese sulphate, mustard, potassium iodide, anise seed, ammonium chloride, dextrose, kaolin, starch, sterotex, and talc.

3. Dr. Mayfield Poultry Sulfa; each pound contains 80 percent sulfathiazole together with the following items which are listed as inert ingredients, copper sulphate 4 percent, iron oxide, arsenic trioxide 1 percent, anise seed, sulphates of aluminum, manganese and cobalt, wild mustard, magnesium carbonate, potassium iodide 0.2 percent and fenugreek.

The Academy classified these preparations as probably not effective for use in the treatment of scours in calves; for treatment of typhoid in chickens and turkeys; or for preventing spread of pullorum, typhoid, cholera and coryza in turkeys and chickens. The classification was based on the following:

1. For scours in calves no data were provided, and the recommended dosage is variable.

2. The therapeutic claims for poultry are questionable.

3. Each disease claim should be properly qualified as "appropriate for use in (name of disease) caused by pathogens sensitive to (name of drug)" and if the disease claim cannot be so qualified the claim must be dropped.

4. The label for the powder should warn that treated animals must actually consume enough medicated feed to provide a therapeutic dose under the conditions tha tprevail and as a precaution, the label should state the desired oral dose per unit of animal weight per day for each species as a guide to effective use of the preparation in feed.

5. Claims made "for prevention of" or "to prevent" should be replaced with "as an aid in the control of" or "to aid in the control of".

6. Evidence must be provided that the tablets disintegrate in the gastrointestinal tract of the medicated species to produce the desired therapeutic effect.

7. Each inert ingredient listed on the labels that has a therapeutic effect should be listed as an active ingredient, and each active ingredient in a preparation containing more than one drug must be effective, or contribute to the effectiveness of the preparation, to warrant acceptance as a therapeutic ingredient. These preparations have not satisfied the above conditions.

The Food and Drug Administration concurs with the Academy's findings.

This evaluation is concerned only with these drugs' effectiveness and safety to the animal to which administered. It does not take into account the safety for food use of food derived from drug-treated animals. Nothing herein will constitute a bar to further proceedings with respect to questions of safety of the drugs or their metabolites as residues in food products derived from treated animals.

This announcement is published (1) to inform the holders of new animal drug applications of the findings of the Academy and the Food and Drug Administration and (2) to inform all interested persons that such articles to be marketed must be the subject of approved new animal drug applications and otherwise comply with all other requirements of the Federal Food, Drug, and Cosmetic Act.

Holders of new animal drug applications are provided 6 months from the date of publication hereof in the FEDERAL REGISTER to submit adequate documentation in support of the labeling used.

Each holder of a new animal drug application which became effective prior to October 10, 1962, is requested to submit updating information as needed to make the application current with regard to manufacture of the drug, including information on drug components and composition, and also including information regarding manufacturing methods, facilities, and controls, in accordance with the requirements of section 512 of the act.

Written comments regarding this announcement, including requests for an informal conference, may be addressed to the Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852.

The holder of the new animal drug application for the listed drugs has been mailed a copy of the NAS–NRC report. Any other interested person may obtain a copy by writing to the Food and Drug Administration, Press Relations Staff, 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 512, 52 Stat. 1050–51, 82 Stat. 343–51; 21 U.S.C. 352, 360b) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: July 24, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-10141; Filed, Aug. 4, 1970; 8:47 a.m.]

[DESI 0043NV]

CHLORTETRACYCLINE HYDROCHLORIDE CAPSULES

Drugs for Veterinary Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following preparations:

1. Aureomycin Capsules 50 MG.; each capsule contains 50 milligrams of chlortetracycline hydrochloride, crystalline; by American Cyanamid Company, Post Office Box 400, Princeton, N.J. 08540.

2. Aureomycin Capsules 100 MG.; each capsule contains 100 milligrams of chlortetracycline hydrochloride, crystalline; by American Cyanamid Co.

3. Aureomycin Capsules 250 MG.; each capsule contains 250 milligrams of chlortetracycline hydrochloride, crystalline; by American Cyanamid Co.

The Academy evaluated these preparations as probably effective for the treatment of dog, cat, calf, and pig diseases when such disease are caused by pathogens sensitive to chlortetracycline hydrochloride. The Academy stated:

1. Claims made regarding "for prevention of" or "to prevent" should be replaced with "as an aid in the control of" or "to aid in the control of".

2. Each disease claim should be properly qualified as "appropriate for use in (name of disease) caused by pathogens sensitive to (name of drug)" and if the disease claim cannot be so qualified the claim must be dropped.

3. In calves and pigs, the minimum recommended oral dose is 10 milligrams per pound of body weight daily in divided doses. For dogs and cats, the minimum recommended oral dose is 25 milligrams per pound of body weight daily in divided doses.

The Food and Drug Administration concurs with the Academy's findings.

This evaluation is concerned only with these drugs' effectiveness and safety to the animal to which administered. It does not take into account the safety for food use of food derived from drug-treated animals. Nothing herein will constitute a bar to further proceedings with respect to questions of safety of the drugs or their metabolites as residues in food products derived from treated animals.

This announcement is published (1) to inform the holders of new animal drug applications of the findings of the Academy and the Food and Drug Administration and (2) to inform all interested persons that such articles to be marketed must be the subject of approved new animal drug applications and otherwise comply with all other requirements of the Federal Food, Drug, and Cosmetic Act.

Holders of new animal drug applications are provided 6 months from the date of publication hereof in the FEDERAL REGISTER to submit adequate documentation in support of the labeling used.

Each holder of a new animal drug application which became effective prior to October 10, 1962, is requested to submit updating information as needed to make the application current with regard to manufacture of the drug, including information on drug components and composition, and also including information regarding manufacturing methods, facilities, and controls, in accordance with the requirements of section 512 of the act.

Written comments regarding this announcement, including requests for an informal conference, may be addressed to the Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852.

The holder of the new animal drug application for the listed drugs has been mailed a copy of the NAS–NRC report. Any other interested person may obtain a copy by writing to the Food and Drug Administration, Press Relations Staff, 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 512, 52 Stat. 1050–51, 82 Stat. 343–51; 21 U.S.C. 352, 360b) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: July 24, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-10136; Filed, Aug. 4, 1970; 8:47 a.m.]

[DESI 0015 NV]

CHLORTETRACYCLINE IN OIL

Drugs for Veterinary Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following preparation: Aureomycin Chlortetracycline in oil Pigdoser; each cubic centimeter contains 50 milligrams of chlortetracycline; by American Cyanamid Co., Post Office Box 400, Princeton, N.J. 98540.

The Academy evaluated this preparation as probably effective for the treatment of bacterial diarrhea and bacterial pneumonia in suckling pigs when such conditions are caused by pathogens sensitive to chlortetracycline. The Academy stated: (1) Claims made regarding "for prevention of" or "to prevent" should be replaced with "as an aid in the control of"; or "to aid in the control of"; (2) each disease claim should be properly qualified as "appropriate for use in (name of disease) caused by pathogens sensitive to (name of drug)." If the disease claim cannot be so qualified the claim must be dropped; and (3) directions for use need clarification. The Food and Drug Administration concurs with the Academy's findings.

This evaluation is concerned only with the drug's effectiveness and safety to the animal to which administered. It does not take into account the safety for food use of food derived from drug-treated animals. Nothing herein will constitute a bar to further proceedings with respect to questions of safety of the drug or its metabolites as residues in food products derived from treated animals.

This announcement is published (1) to inform the holders of new animal drug applications of the findings of the Academy and the Food and Drug Administration and (2) to inform all interested persons that such articles to be marketed must be the subject of approved new animal drug applications and otherwise comply with all other requirements of the Federal Food, Drug, and Cosmetic Act.

Holders of new animal drug applications are provided 6 months from the date of publication hereof in the FEDERAL REGISTER to submit adequate documentation in support of the labeling used.

Each holder of a new animal drug application which became effective prior to October 10, 1962, is requested to submit updating information as needed to make the application current with regard to manufacture of the drug, including information on drug components and composition, and also including information regarding manufacturing methods, facilities, and controls, in accordance with the requirements of section 512 of the act.

Written comments regarding this announcement, including requests for an informal conference, may be addressed to the Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852.

The holder of the new animal drug application for the listed drug has been mailed a copy of the NAS–NRC report. Any other interested person may obtain a copy by writing to the Food and Drug Administration, Press Relations Staff, 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 512, 52 Stat. 1050–51, 82 Stat. 343–51; 21 U.S.C. 352, 360b) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: July 27, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-10135; Filed, Aug. 4, 1970; 8:47 a.m.]

[DESI 0054 NV]

CHLORTETRACYCLINE WITH BENZOCAINE FOR TOPICAL USE

Drugs for Veterinary Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following preparation: Aureomycin Powder 2 Percent; each gram contains 20 milligrams of chlortetracycline hydrochloride and 10 milligrams of benzocaine; by Agricultural Division, American Cyanamid Co., Post Office Box 400, Princeton, N.J. 08540.

The Academy evaluated this product as probably not effective for treatment of pinkeye (infectious keratoconjunctivitis) in cattle and for the prevention of infections in superficial skin cuts and abrasions. The Academy stated: (1) No clinical data were furnished on the use of the drug; (2) in animals as a general principle powders should not be used in eyes; (3) ophthalmic formulations containing benzocaine in combination with other drugs when recommended for continued use are considered of questionable efficacy; and (4) more information is needed to support label claims for use in superficial skin cuts and abrasions.

The Food and Drug Administration concurs with the Academy's findings.

This announcement is published (1) to inform the holders of new animal drug applications of the findings of the Academy and the Food and Drug Administration and (2) to inform all interested persons that such articles to be marketed must be the subject of approved new animal drug applications and otherwise comply with all other requirements of the Federal Food, Drug, and Cosmetic Act.

Holders of new animal drug applications are provided 6 months from the date of publication hereof in the FEDERAL REGISTER to submit adequate documentation in support of the labeling used.

Each holder of a new animal drug application which became effective prior to October 10, 1962, is requested to submit updating information as needed to make the application current with regard to manufacture of the drug, including information on drug components and composition, and also including information regarding manufacturing methods, facilities, and controls, in accordance with the requirements of section 512 of the act.

Written comments regarding this announcement, including requests for an informal conference, may be addressed to the Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852.

The holder of the new animal drug application for the listed drug has been mailed a copy of the NAS–NRC report. Any other interested person may obtain a copy by writing to the Food and Drug Administration, Press Relations Staff, 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 512, 52 Stat. 1050–51, 82 Stat. 343–51; 21 U.S.C. 352, 360b) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: July 24, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-10138; Filed, Aug. 4, 1970; 8:47 a.m.]

[DESI 13091V]

DRUG PRODUCT CONTAINING ERYTHROMYCIN

Drugs for Veterinary Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following preparation: Vineland Egg Dip Formula 112; each pound contains 90 grams erythromycin activity (125 grams erythromycin thiocyanate) and 6 grams of riboflavin-5'-phosphate sodium; by Vineland Poultry Laboratories, East Landis Avenue, Vineland, N.J. 08360.

The Academy classified this preparation as probably effective in reducing the incidence of PPLO (pleuropneumonia-like-organisms) in hatching eggs, and probably not effective to increase hatchability, although it may aid in maintaining hatchability, under appropriate conditions, by controlling pathogenic micro-organisms. The Academy stated: (1) Each disease claim should be properly qualified as "appropriate for use in (name of disease) caused by pathogens sensitive to (name of drug)", and if the disease claim cannot be so qualified the claim must be dropped; and (2) substantial evidence was not presented to establish that each ingredient designated as active makes a contribution to the total effect claimed for the drug combination.

The Food and Drug Administration concurs with the Academy's findings.

This evaluation is concerned only with the drug's effectiveness and safety to the animal to which administered. It does not take into account the safety for food use of food derived from drug-treated animals. Nothing herein will constitute a bar to further proceedings with respect to questions of safety of the drug or its metabolites as residues in food products derived from treated animals.

This announcement is published (1) to inform the holders of new animal drug applications of the findings of the Academy and the Food and Drug Administration and (2) to inform all interested persons that such articles to be marketed must be the subject of approved new animal drug applications and otherwise comply with all other requirements of the Federal Food, Drug, and Cosmetic Act.

Holders of new animal drug applications are provided 6 months from the date of publication hereof in the FEDERAL REGISTER to submit adequate documentation in support of the labeling used.

Each holder of a new animal drug application which became effective prior to October 10, 1962, is requested to submit updating information as needed to make the application current with regard to manufacture of the drug, including information on drug components and composition, and also including information regarding manufacturing methods, facilities, and controls, in accordance with the requirements of section 512 of the act.

Written comments regarding this announcement, including requests for an informal conference, may be addressed to the Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852.

The holder of the new animal drug application for the listed drug has been mailed a copy of the NAS-NRC report. Any other interested person may obtain a copy by writing to the Food and Drug Administration, Press Relations Staff, 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 512, 52 Stat. 1050–51, 82 Stat. 343–51; 21 U.S.C. 352, 360b) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: July 24, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-10144; Filed, Aug. 4, 1970; 8:47 a.m.]

[DESI 9221V]

DRUG PRODUCT CONTAINING LIDOCAINE HYDROCHLORIDE

Drugs for Veterinary Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following preparation: Jen-Sal 2 percent Xyclocaine HCL; each cubic centimeter contains 0.02 gram of lidocaine hydrochloride, and 0.00001 gram epinephrine; by Jensen-Salsbery Laboratories, Division of Richardson-Merrell Inc., 520 West 21st Street, Kansas City, Mo. 64141.

The Academy evaluated this product as probably effective for use as a local anesthetic in cattle, horses, dogs, and cats. The Academy stated:

1. The use of a central nervous system stimulant is contraindicated in the treatment of overdoses of local anesthetics. Use of oxygen and an arterial pressor agent such as norepinephrine are to be preferred over the use of an analeptic or central nervous system agent, i.e., pentamethylenetetrazole, in treatment of shock induced by lidocaine hydrochloride.

2. Under the caution portion of the package insert, the user should be warned of the possibility of central nervous system excitation or convulsive seizures when lidocaine hydrochloride is employed for local anesthetic purposes. The use of ultrashort or short acting barbiturates and oxygen are recommended in antidoting conclusive seizures produced by overdoses of a local anesthetic.

The Food and Drug Administration concurs with the Academy's findings. This evaluation is concerned only with the drug's effectiveness and safety to the animal to which administered. It does not take into account the safety for food use of food derived from drug-treated animals. Nothing herein will constitute a bar to further proceedings with respect to questions of safety of the drug or its metabolites as residues in food products derived from treated animals.

This announcement is published (1) to inform the holders of new animal drug applications of the findings of the Academy and the Food and Drug Administration and (2) to inform all interested persons that such articles may be marketed provided they are the subject of approved new animal drug applications and otherwise comply with all other requirements of the Federal Food, Drug, and Cosmetic Act.

Holders of new animal drug applications are provided 6 months from the date of publication hereof in the FEDERAL REGISTER to submit adequate documentation in support of the labeling used.

Each holder of a new animal drug application which became effective prior to October 10, 1962, is requested to submit updating information as needed to make the application current with regard to manufacture of the drug, including information on drug components and composition, and also including information regarding manufacturing methods, facilities, and controls, in accordance with the requirements of section 512 of the act.

Written comments regarding this announcement, including requests for an informal conference, may be addressed to the Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852.

The holder of the new animal drug application for the listed drug has been mailed a copy of the NAS–NRC report. Any other interested person may obtain a copy by writing to the Food and Drug Administration, Press Relations Staff, 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 512, 52 Stat. 1050–51, 82 Stat. 343–51; 21 U.S.C. 352, 360b) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: July 24, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-10142; Filed, Aug. 4, 1970; 8:47 a.m.]

[DESI 0013 NV]

DRUG PRODUCT CONTAINING TETRACYCLINE HYDROCHLORIDE

Drugs for Veterinary Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following preparation: Polyotic Intramuscular 5 Gm.; powder for reconstitution which contains 5 grams of tetracycline hydrochloride; 2.342 grams magnesium chloride, and 2

grams procaine hydrochloride per vial to which 50 cubic centimeters of water is to be added by the user; by American Cyanamid Co., Post Office Box 400, Princeton, N.J. 08540.

The Academy evaluated this drug as probably effective for treating infections in small and large animals when such infections are caused by pathogens sensitive to the drug. The Academy stated:

1. The labeling contains considerable inclusive phrasing which tends to be misleading and an overstatement of the activity of tetracycline hydrochloride.

2. The effectiveness against blackleg and anthrax has not been adequately documented.

3. Each disease claim should be properly qualified as "appropriate for use in (name of disease) caused by pathogens sensitive to (name of drug)" and if the disease claim cannot be so qualified the claim must be dropped.

4. The labeling should warn the user of potential tissue irritation that may result from the injection of this preparation.

The Food and Drug Administration concurs with the Academy's findings.

This announcement is published (1) to inform the holders of new animal drug applications of the findings of the Academy and the Food and Drug Administration and (2) to inform all interested persons that such articles may be marketed provided they are the subject of approved new animal drug applications and otherwise comply with all other requirements of the Federal Food, Drug, and Cosmetic Act.

Holders of new animal drug applications are provided 6 months from the date of publication hereof in the FEDERAL REGISTER to submit adequate documentation in support of the labeling used.

Each holder of a new animal drug application which became effective prior to October 10, 1962, is requested to submit updating information as needed to make the application current with regard to manufacture of the drug including information on drug components and composition, and also including information regarding manufacturing methods, facilities, and controls, in accordance with the requirements of section 512 of the act.

Written comments regarding this announcement, including requests for an informal conference, may be addressed to the Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852.

In accordance with § 3.25 *Antibiotics used in food-producing animals*, an order published in the FEDERAL REGISTER of May 17, 1969 (34 F.R. 7852), amended § 146c.221 *Tetracycline hydrochloride for intramuscular use; tetracycline phosphate complex for intramuscular use* to require the statement "Warning—Not for use in animals which are raised for food production."

The holder of the new animal drug application for the listed drug has been mailed a copy of the NAS–NRC report. Any other interested person may obtain a copy by writing to the Food and Drug Administration, Press Relations Staff, 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 512, 52 Stat. 1050–51, 82 Stat. 343–51; 21 U.S.C. 352, 360b) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: July 27, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-10134; Filed, Aug. 4, 1970; 8:47 a.m.]

[DESI 0053 NV]

ZINC BACITRACIN-NEOMYCIN SULFATE-POLYMYXIN OINTMENT

Drugs for Veterinary Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following preparation: Triple Antibiotic Ointment, Towne; each gram contains 400 units of zinc bacitracin, 5,000 units of polymyxin B sulfate, and 5 milligrams of neomycin sulfate (equivalent to 3.5 milligrams neomycin base); distributed by Towne, Paulsen & Co., Inc., Pharmaceutical Chemists, Monrovia, Calif. 91016; manufactured by Delta Laboratories, Division of Anabolic Inc., 1050 West Florence Avenue, Inglewood, Calif. 90302.

The Academy evaluated this preparation as probably effective for use when used to help prevent infection in minor cuts, burns, and abrasions, and when used as an aid in healing. The Academy stated: (1) There are no references of the effectiveness of this preparation in veterinary dermatology; (2) labeling changes are needed to make it applicable to veterinary use; and (3) because of possible incompatibilities in the mechanisms of action of antimicrobial ingredients in a product containing more than one, it is suggested that the manufacturer reconsider the formula. The addition of one antibiotic to another may result in a less than additive action with regard to inhibition of bacterial multiplication, or with regard to the fraction of bacterial population killed.

The Food and Drug Administration concurs with the Academy's findings.

This announcement is published (1) to inform the holders of new animal drug applications of the findings of the Academy and the Food and Drug Administration and (2) to inform all interested persons that such articles may be marketed provided they are the subject of approved new animal drug applications and otherwise comply with all other requirements of the Federal Food, Drug, and Cosmetic Act.

Holders of the animal drug applications are provided 6 months from the date of publication hereof in the FEDERAL REGISTER to submit adequate documentation in support of the labeling used.

Each holder of a new animal drug application which became effective prior to October 10, 1962, is requested to submit updating information as needed to make the application current with regard to manufacture of the drug, including information on drug components and composition, and also including information regarding manufacturing methods, facilities, and controls, in accordance with the requirements of section 512 of the act.

Written comments regarding this announcement, including requests for an informal conference, may be addressed to the Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852.

The holder of the new animal drug application for the listed drug has been mailed a copy of the NAS–NRC report. Any other interested person may obtain a copy by writing to the Food and Drug Administration, Press Relation Staff, 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 512, 52 Stat. 1050–51, 82 Stat. 343–51; 21 U.S.C. 352, 360b) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: July 27, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-10137; Filed, Aug. 4, 1970; 8:47 a.m.]

[Docket No. FDC-D-209; NDA 10-428]

BRISTOL LABORATORIES

Neuro-Centrine Tablets; Notice of Withdrawal of Approval of New-Drug Application

A notice (DESI 10240) was published in the FEDERAL REGISTER of September 27, 1969 (34 F.R. 14907, 14908), advising Bristol Laboratories, Division of Bristol-Meyers Co., Syracuse, N.Y. 13201, and any interested person who might be adversely affected, of the intention of the Commissioner of Food and Drugs to initiate proceedings to withdraw approval of new-drug application No. 10-428 for Neuro-Centrine tablets containing 15 milligrams phenobarbital, 0.25 milligram aminopentamide sulfate, and 0.05 milligram reserpine. No pertinent data were submitted pursuant to the notice.

Bristol Laboratories, holder of the application, by letter of May 15, 1970, requested withdrawal of approval of the application, thereby waiving opportunity for a hearing.

The Commissioner of Food and Drugs, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505(e), 52 Stat. 1053, as amended; 21 U.S.C. 355(e)) and under authority delegated to him (21 CFR 2.120), finds on the basis of new information, evaluated together with evidence available when the application was approved, that there is a lack of substantial evidence that Neuro-Centrine Tablets will have the

effect it is purported or represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

Therefore, pursuant to the foregoing finding, approval of new-drug application No. 10–428, and all amendments and supplements applying thereto, is withdrawn effective on the date of signature of this document. Outstanding stocks of the drug should be recalled.

Promulgation of this order will cause any drug containing the same components and offered for the same conditions of use to be a new drug for which an approved new-drug application is not in effect, and will make it subject to regulatory action.

Dated: July 27, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70–10146; Filed, Aug. 4, 1970; 8:48 a.m.]

[Docket No. FDC–D–207; NDA No. 11–591]

CIBA PHARMACEUTICAL CO.

Ritonic Capsules; Notice of Opportunity for Hearing on Proposal To Withdraw Approval of New-Drug Application

In an announcement (DESI 1002) published in the FEDERAL REGISTER of September 12, 1969 (34 F.R. 14339), CIBA Pharmaceutical Co., 556 Morris Avenue, Summit, N.J. 07901, the holder of new-drug application No. 11–591 for Ritonic Capsules containing 5 milligrams methylphenidate hydrochloride, 1.25 milligrams methyltestosterone, 5 micrograms ethinyl estradiol, 5 milligrams thiamine mononitrate, 1 milligram riboflavin, 2 milligrams pyridoxine hydrochloride, 2 micrograms cobalamin concentrate, 25 milligrams niacinamide, and 250 milligrams dibasic calcium phosphate per capsule, as well as any other interested person, were invited to submit pertinent data bearing on the intention of the Commissioner of Food and Drugs to initiate proceedings to withdraw approval of the new-drug application.

CIBA responded to the announcement; however, the information submitted does not provide substantial evidence of effectiveness of the drug for its recommended uses, that is: In patients who are losing their drive, alertness, vitality, and zest for living because of the natural degenerative changes of advancing years; patients debilitated or depressed by chronic illness or overwork; and patients who are recuperating from illness or surgery.

Therefore, notice is given to CIBA Pharmaceutical Co., and to any other interested person who may be adversely affected, that the Commissioner proposes to issue an order under the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of new-drug application No. 11–591 and all amendments and supplements thereto for Ritonic Capsules on the grounds that new information before the Commissioner with respect to such drug, evaluated with the evidence available to him when the application was approved, shows there is a lack of substantial evidence that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner will give the applicant, and any interested person who would be adversely affected by an order withdrawing such approval, an opportunity for a hearing to show why approval of the new-drug application should not be withdrawn. Promulgation of the proposed order will cause any drug for human use containing the same components and offered for the same conditions of use to be a new drug for which an approved new-drug application is not in effect. Any such drug then on the market would be subject to regulatory proceedings.

Within 30 days after publication hereof in the FEDERAL REGISTER, such persons are required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–62, 5600 Fishers Lane, Rockville, Md. 20852, a written appearance electing whether:

1. To avail themselves of the opportunity for a hearing; or

2. Not to avail themselves of the opportunity for a hearing.

If such persons elect not to avail themselves of the opportunity for a hearing, the Commissioner without further notice will enter a final order withdrawing approval of the new-drug application. Failure of such persons to file a written appearance of election within said 30 days will be construed as an election by such persons not to avail themselves of the opportunity for a hearing.

The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process the Commissioner finds entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

If such persons elect to avail themselves of the opportunity for a hearing, they must file within 30 days after the publication of this notice in the FEDERAL REGISTER a written appearance requesting the hearing, giving the reasons why approval of the new-drug application should not be withdrawn, together with a well-organized and full-factual analysis of the clinical and other investigational data they are prepared to prove in support of their opposition to this notice. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing. When it clearly appears from the data in the application and from the reasons and factual analysis in the request for the hearing that no genuine and substantial issue of fact precludes the withdrawal of approval of the application, the Commissioner will enter an order on these data, making findings and conclusions on such data.

If a hearing is requested and is justified by the response to this notice, the issues will be defined, a hearing examiner will be named, and he shall issue a written notice of the time and place at which the hearing will commence, not more than 90 days after the expiration of such 30 days unless the hearing examiner and the person(s) requesting the hearing otherwise agree (35 F.R. 7250, May 8, 1970).

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–53, as amended; 21 U.S.C. 355) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: July 24, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70–10145; Filed, Aug. 4, 1970; 8:48 a.m.]

HOFFMANN-LA ROCHE, INC.

Notice of Withdrawal of Petition for Food Additive Containing Sulfadimethoxine, Ormetoprim, and Arsanilic Acid

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786; 21 U.S.C. 348(b)), the following notice is issued:

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52), Hoffmann-La Roche, Inc., Nutley, N.J. 07110, has withdrawn its petition (41–740V), for which notice of filing was published in the FEDERAL REGISTER of May 8, 1969 (34 F.R. 7465), proposing the establishment of a food additive regulation (21 CFR Part 121) to provide for the safe use of a combination drug containing sulfadimethoxine and ormetoprim (2,4-diamino-5-[4,5-dimethoxy-2-methylbenzyl] pyrimidine) with arsanilic acid in the feed of broiler chickens (1) for prevention of certain bacterial diseases (infectious coryza and *E. coli* infections) and coccidiosis, (2) for growth promotion and feed efficiency, and (3) for improving pigmentation.

Dated: July 27, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70–10131; Filed, Aug. 4, 1970; 8:46 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 22350]

WORLD AIRWAYS, INC. AND PAKISTAN INTERNATIONAL AIRLINES CORP.

Notice of Proposed Approval

Joint application of World Airways, Inc., and Pakistan International Airlines

Corp., for disclaimer of jurisdiction or approval under section 408 of the Federal Aviation Act of 1958, as amended, Docket 22350.

Notice is hereby given, pursuant to the statutory requirements of section 408(b) of the Federal Aviation Act of 1958, as amended, that the undersigned intends to issue the attached order under delegated authority. Interested persons are hereby afforded a period of 10 days from this date within which to file comments or request a hearing with respect to the action proposed in the order.

Dated at Washington, D.C., July 30, 1970.

[SEAL] A. M. ANDREWS,
Director,
Bureau of Operating Rights.

Issued under delegated authority.

ORDER OF APPROVAL

By joint application filed July 9, 1970, World Airways, Inc. (World), and Pakistan International Airlines Corp. (PIA) request that the Board disclaim jurisdiction over, or in the alternative, approve pursuant to section 408 of the Federal Aviation Act of 1958, as amended (the Act), an agreement whereby World will dry-lease to PIA a Boeing 707–373C aircraft.

World is a U.S. supplemental air carrier.[1] PIA holds Board authority as a foreign air carrier, pursuant to Board Order E–16850, May 24, 1961, but at present engages only in foreign transportation within Pakistan and between Pakistan and various European, Asian and Middle-East countries, conducting scheduled transportation with Boeing jet aircraft. PIA has recently sold four Triton aircraft and intends to purchase three new Boeing 707 aircraft. However, PIA requires one additional aircraft to meet its present scheduled carrier needs. Accordingly, PIA has entered into an agreement[1a] with World for the leasing of a Boeing 707–373C aircraft which will bring PIA's fleet to a total of 12 Boeing aircraft. According to the application, the leased aircraft is intended to enable PIA to continue its present service.

The agreement involves the lease of one B–707–373C aircraft for a period of 3 years and 10 months commencing on September 1, 1970. The aircraft initially delivered is to be replaced with a substitute Boeing aircraft on or about June 30, 1971. Rental will be at the rate of $85,000 per month, adjustable upwards in the event that the lessee, PIA, shall give notice of earlier termination of the lease.[2] PIA will have complete and exclusive control of the aircraft, providing its own crew, fuel, and so forth, under the terms of the "dry" lease.

It appears that the aircraft involved in the present lease represents approximately 7.4 percent of the total value of World's aircraft, spare engines and parts. World presently has no other aircraft under lease to PIA. In support for the alternative request for approval, it is submitted that approval of the instant lease agreement will not result in the control of an air carrier engaged in air transportation, nor will it result in creating a monopoly or tend to restrain competition. Moreover, the applicants contend that the rent payments will be of benefit to World, as well as to the United States in its balance of payments position.

No objections to the application or requests for a hearing have been received.

Notice of intent to dispose of the application without a hearing has been published in the FEDERAL REGISTER, and a copy of such notice has been furnished by the Board to the Attorney General not later than the day following the date of such publication, both in accordance with the requirements of section 408(b) of the Act.

Upon consideration of the application, it is concluded that the lease involves a substantial part of the properties of World and, therefore, is subject to section 408 of the Act. However, it is further concluded that the transaction does not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation, does not result in creating a monopoly and does not tend to restrain competition. Furthermore, no person disclosing a substantial interest in the proceeding is currently requesting a hearing, and it is concluded that the public interest does not require a hearing. It appears that the lease will enable PIA to continue its present services without depriving World of aircraft necessary to meet its own commitments.[3] In addition, the transaction is similar to others approved by the Board.[4] Under all the circumstances, it is not found that the lease transaction will be inconsistent with the public interest or that the conditions or section 408 will be unfulfilled.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.13 and 385.3, it is found that the foregoing transaction should be approved under section 408(b) of the Act without a hearing.

Accordingly, it is ordered, That:

1. The subject lease by PIA of a Boeing 707–373C aircraft and related parts and spare engines from World be and it hereby is approved; and

2. To the extent not granted, the application be and it hereby is denied.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 5 days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review thereof is filed, or the Board gives notice that it will review this order on its own motion.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70–10167; Filed, Aug. 4, 1970; 8:49 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 18925]

ROBERT P. BRICKEY

Order Designating Matter of Suspension for Hearing

In the matter of Robert P. Brickey, 633 East 400 South, Orem, Utah 84057, suspension of amateur radio operator license W7QAG.

The Commission, by the Chief, Safety and Special Radio Services Bureau, under delegated authority, having under consideration its order, released June 15, 1970, which suspended the extra class amateur radio operator license of Robert P. Brickey, 633 East 400 South, Orem, Utah 84057, which was scheduled to expire on August 17, 1971, for the balance of the license term, and licensee's request for a hearing in the above-entitled matter;

It appearing, that Robert P. Brickey, in accordance with section 303(m)(2) of the Communications Act of 1934, as amended, filed with the Commission within the time specified therefore an application requesting a hearing on the Commission's above-mentioned suspension order; and

It further appearing, that, under the provisions of section 303(m)(2) of the Communications Act of 1934, as amended, upon the filing of a timely written application for hearing, the Commission's suspension order is held in abeyance until the conclusion of proceedings thereon;

It is ordered, Under authority contained in section 303(m)(2) of the Communications Act, as amended, and § 0.332(f) of the Commission's rules, that the matter of the suspension of the extra class amateur radio operator license of Robert P. Brickey, is designated for hearing before a Hearing Examiner and at a time and place to be specified by subsequent order, upon the following issues:

1. To determine whether the licensee committed the violations of section 303(m)(1)(E) of the Communications Act of 1934, as amended, and § 97.125 of the Commission's rules on the date and in the manner as set forth in the Commission's order of suspension;

2. To determine whether the licensee's actions as described in the order of suspension are contrary to the public interest, convenience and necessity standard of sections 301 and 307(a) of the Communications Act of 1934, as amended; and

3. If the licensee committed such violations, and if such actions as described in the order of suspension are contrary to the public interest, convenience and necessity standard, to determine whether the facts or circumstances in connection therewith would warrant any change in the Commission's order of suspension; and

It is further ordered, That a copy of this order shall be sent to licensee by certified Airmail—return receipt requested at the address shown in the caption.

Chief, Safety and Special Radio Services Bureau.

Adopted: July 27, 1970.

Released: July 30, 1970.

[SEAL] NEWTON B. JASLOW,
Acting Chief, Legal, Advisory and Enforcement Division.

[F.R. Doc. 70–10169; Filed, Aug. 4, 1970; 8:49 a.m.]

[1] Orders E–23350, E–24237, and E–24242.

[1a] Two supplements to the lease agreement were filed with the Board on July 28 and 29, 1970.

[2] PIA has the option of terminating the lease on June 30, 1972 or June 30, 1973.

[3] The application indicates that, as of June 30, 1970, World owned 15 aircraft including six Boeing 727's and nine Boeing 707's.

[4] Cf. Japan Air Lines Co., Ltd., Order 70–2–85, Feb. 19, 1970.

[Docket No. 18819; FCC 70R-266]

HAWAIIAN PARADISE PARK CORP.

Memorandum Opinion and Order Enlarging Issues

In regard application of Hawaiian Paradise Park Corp. (KTRG), Honolulu, Hawaii, for renewal of broadcast license, Docket No. 18819, File No. BR-3845.

1. This proceeding involves the application of Hawaiian Paradise Park Corp. (KTRG) for renewal of its license to operate standard broadcast Station KTRG, Honolulu, Hawaii. The Commission, by Order (22 FCC 2d 459, 18 RR 2d 953, released Apr. 10, 1970), designated the matter for hearing on numerous issues including, inter alia, issues relating to violations of the personal attack rules, violations of the fairness doctrine, use of broadcast facilities to further private interests, and lack of candor. The Review Board presently has before it a motion to enlarge issues, filed June 18, 1970, by Hawaiian Paradise Park Corp. (KTRG),[1] seeking the addition of the following issue to this proceeding:

To determine whether the programing of Station KTRG has been meritorious particularly with regard to public service programs so as to constitute a countervailing factor in the resolution of this case insofar as it relates to issues 1 to 10 above.

2. Conceding that the filing of its motion is late, KTRG submits that good cause for the delay exists. Movant maintains that, in accordance with precedent and with § 1.248(c)(1), it initially requested the Hearing Examiner, at a prehearing conference held on June 11, 1970, to clarify whether the scope of the designated conclusory issue was broad enough to permit meritorious programing evidence. Shortly after the Examiner ruled that a separate issue may be necessary, KTRG points out, it filed the instant motion. On the merits, KTRG urges that renewal applicants have been permitted by the Review Board to show the meritorious nature of their past programing in mitigation of possible adverse findings under other issues, citing Midwest Radio-Television, Inc., 18 FCC 2d 1011, 16 RR 2d 987 (1969); Medford Broadcasters, Inc., 18 FCC 2d 817, 16 RR 2d 897 (1969); and Bluegrass Broadcasting Co., 14 FCC 2d 788, 14 RR 2d 488 (1968). In light of the existing issues specified against it in this proceeding, KTRG requests that such an issue be added here. The Broadcast Bureau, in its comments, agrees that good cause exists for the late filing of the instant motion and that a meritorious programing issue is warranted. The Bureau would, however, phrase the issue somewhat differently as follows:

To determine the manner in which the programing broadcast by the licensee, during the period of his most recent license renewal, has met the needs of the areas and populations served by the station.

[1] The Board also has before it the comments of the Broadcast Bureau, filed July 1, 1970, and the reply of KTRG, filed July 9, 1970.

This wording, the Bureau submits, would be consistent with Palmetto Broadcasting Co., 33 FCC 250 (1962) and Brandywine-Main Line Radio Co., FCC 67-99, 9 RR 2d 126, wherein the Commission assertedly indicated that it was appropriate to review a station's overall operation in meeting the needs of its community. In reply, KTRG argues that its proposed wording for the requested issue is in accord with that consistently used in similar cases in the past, and that the Bureau's wording would improperly limit the issue, contrary to Commission policy that a broad mitigation issue is in the public interest.

3. Although the Review Board does not find that good cause for the delay in filing has been shown,[2] we will nevertheless add a meritorious programing issue to this proceeding. Evidence as to the past program record of licensees in renewal proceedings has, in the past, been allowed on the theory that such evidence may mitigate the significance of adverse findings under certain issues. We believe that the cases relied upon by movant are apposite here and will therefore grant the motion. As indicated in those cases, however, only meritorious programing instituted before the licensee received notice that the Commission was contemplating action against it is relevant; and, furthermore, the parties are free to argue the weight to be given to the evidence adduced at an appropriate time. Finally, as to the wording of the issue, we believe the phrasing suggested by the movant more closely conforms with that employed in the earlier cases and, except for an adjustment in enumeration of the issues, it will be adopted.[3] See United Television Company, Inc., FCC 70R-246, ____ FCC 2d ____, released July 16, 1970; Medford Broadcasters, Inc., supra.

4. *Accordingly, it is ordered,* That the motion to enlarge issues, filed June 18, 1970, by Hawaiian Paradise Park Corp. (KTRG), is granted to the extent indicated below and is denied in all other respects; and

5. *It is further ordered,* That existing issue 11 is redesignated as issue 12; and that the issues in this proceeding are enlarged by the addition of the following issue:

11. To determine whether the programing of Station KTRG has been meritorious, particularly with regard to public service programs so as to constitute a countervailing factor in the resolution of this case insofar as it relates to issues 1 to 9, above.

6. *It is further ordered,* That the burdens of proceeding with the introduction of evidence and proof on the issue herein added shall be on Hawaiian Paradise Park Corp.

[2] In the cases relied on by KTRG, the Board clearly held that the addition of a separate issue is required before programing evidence may be adduced.

[3] In the designation order, the nonconclusory character issues are issues 1-9; the issue specified herein will accordingly relate to those issues, rather than issues 1-10 as movant requests.

Adopted: July 30, 1970.

Released: July 31, 1970.

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

[F.R. Doc. 70-10173; Filed, Aug. 4, 1970; 8:50 a.m.]

[Docket No. 18929; File No. BR-2682; FCC 70-815]

KAYE BROADCASTERS, INC.

Memorandum Opinion and Order Designating Application for Hearing on Stated Issues

1. The Commission has before it for consideration the above-captioned application; a petition to deny renewal filed by the Puget Sound Committee for Good Broadcasting on April 18, 1969; an answer to the petition to deny filed by KAYE on August 11, 1969; a reply to the answer filed by the Puget Sound Committee on October 1, 1969; a petition to expedite decision filed by the Puget Sound Committee for Good Broadcasting on June 24, 1970; numerous complaints concerning the operation of KAYE; responses of the licensee to many of the complaints, and informal communications in support of KAYE's renewal application. These pleadings, complaints, and licensee responses to complaints raise questions as to whether the licensee has been operating KAYE in conformity with Commission rules and regulations and in the public interest.

2. From the pleadings, substantial questions are raised whether KAYE has violated the Personal Attack Rules (§ 73.123); violated the fairness doctrine; made false statements to the Commission; failed to make a proper survey of its community's needs; failed to serve its community adequately; and disregarded the Commission's procedural rules. Based upon the information before us, we are unable to determine that a grant of KAYE's renewal application would serve the public interest, convenience and necessity. To insure a full record is made detailing all relevant facts concerning the licensee's operation of station KAYE, an evidentiary hearing is required.

3. *Accordingly, it is ordered,* That pursuant to section 309(e) of the Communications Act of 1934, as amended, the application is designated for hearing at a time and place to be specified in a subsequent order, upon the following issues:

(1) To determine whether KAYE has complied with the fairness doctrine by affording reasonable opportunity for presentation of contrasting views on controversial issues of public importance, including affirmatively seeking to encourage and implement the presentation of contrasting views.

(2) To determine the adequacy of licensee's policies and procedures to assure compliance with section 73.123(a) of the Rules and the Fairness Doctrine.

(3) To determine whether Station KAYE has operated in compliance with § 73.123(a) of the rules; i.e., whether individuals or groups personally attacked over the facilities of KAYE have been given notification, tape recordings (transcripts or summaries) and opportunity to respond as required by § 73.123.[1]

(4) To determine whether KAYE has sought to discourage residents of KAYE's service area from presenting adverse information to the Commission.

(5) To determine the efforts made by KAYE to ascertain the interests and needs of the area to be served, the adequacy of KAYE's past performance in meeting the needs and interests of its community of license, and the manner in which KAYE proposes to meet such needs and interests in the future.

(6) To determine whether KAYE's communications with the Commission have lacked candor and/or truthfulness.

(7) To determine, in light of the evidence adduced under issues 1–6, supra, whether the licensee possesses the requisite qualifications to remain a Commission licensee, and whether the public interest would be served by grant of renewal.

4. *It is further ordered,* That Puget Sound Committee for Good Broadcasting and Pacific Northwest Regional Advisory Board of the Anti-Defamation League of B'nai B'rith shall be made parties to the proceeding herein ordered.

5. *It is further ordered,* That the Broadcast Bureau will issue a bill of particulars within thirty (30) days of the date of release of this order.

6. *It is further ordered,* That, if it is determined that the hearing record does not warrant an order denying the captioned application for renewal of licensee of Station KAYE, it shall also be determined whether the licensee has willfully or repeatedly violated section 315 of the Communications Act or § 73.123 of the Commission's rules and, if so, whether an order of forfeiture pursuant to section 503(b) of the Communications Act, as amended, in the amount of $10,000 or some lesser amount, should be issued.

7. *It is further ordered,* That this document also constitutes a notice of apparent liability for violation of the Communications Act and the Commission's rules (i.e., section 315 of the Act and § 73.123 of the rules—see also bill of particulars to be issued by the Chief, Broadcast Bureau). The Commission has determined that in every case designated for hearing involving revocation or denial of renewal for alleged violations which also come within the purview of section 503(b) of the Act, it shall, as a matter of course, include this forfeiture notice so as to maintain the fullest possible flexibility of action. Since the procedure is thus a routine or standard one, we stress that inclusion of this notice is not to be taken as in any way indicating what the initial or final disposition of the case should be; that judgment is of course to be made on the facts of each case.

8. *It is further ordered,* That to avail itself of the opportunity to be heard, the applicant herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall within twenty (20) days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

9. *It is further ordered,* That the applicant herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing within the time and manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

10. *It is further ordered,* That the petition to deny renewal filed on April 18, 1969, by the Puget Sound Committee for Good Broadcasting, the "petition for joinder" filed on November 24, 1969, by Pacific Northwest Regional Advisory Board of the Anti-Defamation League of B'nai B'rith, and the "petition to expedite decision" filed on June 24, 1970, by the Puget Sound Committee for Good Broadcasting, are granted, to the extent indicated herein, and denied, in all other respects.

11. *It is further ordered,* That the Secretary of the Commission send copies of this order by certified airmail—return receipt requested to KAYE Broadcasters, Inc.

Adopted: July 22, 1970.

Released: July 30, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[2]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 70-10174; Filed, Aug. 4, 1970; 8:50 a.m.]

[1] No violation of § 73.123 which occurred between Sept. 10, 1968, and June 12, 1969, shall be relied upon for decision. See Public Notice 22182, FCC 68-1043, Oct. 16, 1968, and Public Notice 33742, June 12, 1969. The activities involved, however, may be relevant in the context of possible violations of the fairness doctrine.

[2] Chairman Burch absent; Commissioners Bartley and Robert E. Lee concurring in the result.

FEDERAL POWER COMMISSION

[Docket No. CI71-82]

LOUISIANA LAND AND EXPLORATION CO.

Notice of Application

AUGUST 4, 1970.

Take notice that on July 31, 1970, The Louisiana Land and Exploration Co. (Applicant), Post Office Box 60350, New Orleans, La. 70160, filed in Docket No. CI71-82 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Texas, Eastern Transmission Corp. from the Caillou Island Field, Terrebonne Parish, La., and the Lake Raccourci Field, Lafourche Parish, La., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Concurrently with the subject application Applicant has submitted the contract with the purchaser as Applicant's FPC gas rate schedule. The contract provides for a total initial rate of 27.5 cents per Mcf at 15.025 p.s.i.a., but Applicant states that it is willing to accept a certificate conditioned to initial rates of 20 cents per Mcf for gas well gas and 18.5 cents per Mcf for casinghead gas. The dedication under the contract is limited to 300 million Mcf of natural gas.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 21, 1970, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determing the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party to 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.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-10263; Filed, Aug. 4, 1970; 10:09 a.m.]

FEDERAL RESERVE SYSTEM

BARNETT BANKS OF FLORIDA, INC.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of Barnett Banks of Florida, Inc., Jacksonville, Fla., for approval of acquisition of

80 percent or more of the voting shares of Barnett First National Bank in Seminole County, Altamonte Springs, Fla., a proposed new bank.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), and § 222.3 (a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), the application of Barnett Banks of Florida, Inc., Jacksonville, Fla. (Applicant), a registered bank holding company, for the Board's prior approval of the acquisition of 80 percent or more of the voting shares of Barnett First National Bank in Seminole County, Altamonte Springs, Fla. (Altamonte Bank), a proposed new bank.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Comptroller of the Currency and requested his views and recommendation. The Comptroller recommended approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on June 16, 1970 (35 F.R. 9877), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered by the Board.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the Applicant and the banks concerned, and the convenience and needs of the communities to be served. Upon such consideration, the Board finds that:

Applicant, the third largest bank holding company in Florida, controls 21 banks with aggregate deposits of $644 million representing approximately 5.3 percent of total bank deposits in the State. (All banking data are as of Dec. 31, 1969, adjusted to reflect bank holding company acquisitions approved by the Board to date.) Since Altamonte Bank is a proposed new bank, concentration of banking resources in the State would not be immediately affected by consummation of the proposal.

Altamonte Bank, located in south Seminole County about 9 miles north of downtown Orlando (Orange County), would serve a rapidly growing suburban area. Applicant does not now have a subsidiary in Seminole County. Applicant's sole subsidiary in Orange County, the First National Bank at Winter Park, is the third largest bank in the county with approximately 10 percent of the deposits there; and is located 7 miles southeast of Altamonte Bank's location. However, Applicant's Orange County subsidiary derives no significant part of its business from the service area of the proposed new bank; and is an inconvenient banking source for the residents of Altamonte Springs. All other banks in Applicant's system are over 25 miles from Altamonte Bank's location and none competes for business in the south Seminole County area. Seminole County has five banks, of which two are in the southern portion of the county. Each of the two banks nearest to Altamonte Bank has over $16 million deposits and has experienced satisfactory growth. It appears that they would be the principal competitors of Altamonte Bank. Some additional competition appears likely from five other banks in north Orange County. Applicant's de novo entry into south Seminole County is expected to stimulate competition there, without having any adverse effects on any competing banks, or eliminating present competition, or foreclosing potential competition.

Based upon the foregoing the Board concludes that consummation of the proposed acquisition would not have an adverse effect on competition in any relevant area, and is likely to have a procompetitive effect in south Seminole County. The banking factors, as applied to the facts of record, are consistent with approval of the application. At present there is no bank in the service area delineated for Altamonte Bank, and the needs of that area are being served by banks in nearby communities. A new full service bank in the area to be served by Altamonte Bank will give the public a more convenient alternative. This consideration weighs in support of approval of the application. It is the Board's judgment that the proposed transaction would be in the public interest, and that the application should be approved.

It is hereby ordered, On the basis of the Board's findings summarized above, that said application be and hereby is approved, provided that the action so approved shall not be 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; and that the Barnett First National Bank in Seminole County shall be opened for business not later than 6 months after the date of this order; except that a time period herein prescribed may be 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, July 30, 1970.[1]

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-10128; Filed, Aug. 4, 1970; 8:46 a.m.]

FIRST WISCONSIN BANKSHARES CORP.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by First Wisconsin Bankshares Corp., which is a bank holding company located in Milwaukee, Wis., for prior approval by the Board of Governors of the acquisition by applicant of 80 percent or more of the voting shares of First National Bank of Wausau, Wausau, Wis.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Chicago.

By order of the Board of Governors, July 30, 1970.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-10129; Filed, Aug. 4, 1970; 8:46 a.m.]

SECURITY FINANCIAL SERVICES, INC.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by Security Financial Services, Inc., which is a bank holding company located in Sheboygan, Wis., for prior approval by the Board of Governors of the acquisition by applicant of 80 percent or more of the voting shares of Security West Side Bank, Sheboygan, Wis., a proposed new bank.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be

[1] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, and Maisel.

Absent and not voting: Governors Brimmer and Sherrill.

in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Chicago.

By order of the Board of Governors, July 29, 1970.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-10130; Filed, Aug. 4, 1970; 8:46 a.m.]

OFFICE OF EMERGENCY PREPAREDNESS

OIL IMPORT PROGRAM

Questions Concerning Petrochemical Feedstocks

The Staff at the Office of Emergency Preparedness is analyzing the relationship between the Oil Import Program and imports of petrochemical feedstocks. In order to build a good fact foundation for policy evaluation of the program with respect to feedstocks, the staff has developed a few general questions about feedstock trade. These questions have been submitted to producer members of the Chemco and PetroChem Groups. All other interested parties are invited to respond to these questions.

An answer requiring inclusion of any information of a business confidential nature should be labeled as "proprietary." Replies so labeled will be held in strictest confidence and will not be disseminated outside this Agency in any manner that might reveal the identity of the respondent.

Copies of the proposed petrochemical regulations submitted jointly by Chemco and PetroChem, as well as the Report of the Cabinet Task Force on Oil Import Control, are available at this Office for inspection.

Replies should be sent to the Office of Emergency Preparedness, 604 17th Street NW., Washington, D.C. 20504, as well as any request for clarification of the questions. Ten copies of each reply should be returned not later than 30 days after publication in the FEDERAL REGISTER.

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

* * * * *

Consider the following questions in terms of three product areas: (1) Pyrolysis furnace products (ethylene, propylene, etc.), (2) aromatics, and (3) carbon black.

1. What change in production costs of primary petrochemicals at a newly-constructed plant would likely result from freer[1] access to imported feedstocks? For each feedstock considered, specify the feedstock cost by domestic or foreign source, and its byproduct credits, by premium or fuel value, together with the assumptions underlying your estimate of probable future feedstock cost and byproduct credits. To what extent would costs change at an existing plant?

2. What percentage would the change in costs of primary products, reported in answer to question one, represent of the production cost of intermediate and finished petrochemical products?

3. Which U.S. petrochemical products appear to have large export demand through 1980? By what percentage would export sales be increased by a one percentage reduction in the production cost (export price) of intermediate and finished products, i.e., what is the price elasticity of foreign demand for U.S. petrochemical exports? How did you derive your estimate?

4. What are the likely consequences of a program to remove tetraethyl lead from gasoline upon the supply and cost of domestic and foreign feedstocks and the value of associated byproduct credits, assuming, alternatively, continuation of current restriction on imported feedstocks and freer access to those feedstocks?

5. If freer access to feedstocks were granted while American Selling Price system of customs valuation remained in effect on imports of important intermediate and finished petrochemical products, to what extent would this change the tariff protection afforded the value added portion of these products made domestically? Would freer access to imported feedstocks eliminate any need for the American Selling Price system with respect to the affected products?

6. What portion of the net increase in imports resulting from freer access to feedstock would be supplied (if traced to the source of the raw material) by the Eastern Hemisphere?

7. Should a crisis in foreign supply of petroleum products develop sometime after feedstocks were partially exempted from the quota, how would you propose substituting those feedstocks or reducing use of feedstocks? If lighter domestic feedstocks were available, would it be feasible (and at what capital cost) to substitute these for heavier imported feedstocks? If domestic feedstocks could be used but were in short supply, ought feedstock use be reduced by first restricting export sales of petrochemicals?

8. As to the present allocation of quotas to petrochemical producers, how do you view the efficiency and equity arguments, pro and con, for substituting output weight for input volume as the basis of allowances?

Dated: August 3, 1970.

WILLIAM C. TRUPPNER,
Director, National Resource Analysis Center, Office of Emergency Preparedness.

[F.R. Doc. 70-10262; Filed, Aug. 4, 1970; 9:31 a.m.]

[1] For this purpose "freer" should be defined in each of three ways; (1) the Joint Chemco and PetroChem Proposal, (2) the Cabinet Task Force on Oil Import Control Report, and (3) the Separate Report.

TARIFF COMMISSION

[AA1921-63]

WHOLE DRIED EGGS FROM HOLLAND

Determination of Injury

On May 1, 1970, the Tariff Commission was advised by the Assistant Secretary of the Treasury that whole dried eggs from Holland are being, and are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. In accordance with the requirements of section 201(a) of the Antidumping Act (19 U.S.C. 160(a)), the Tariff Commission on the same date instituted investigation No. AA1921-63 to determine whether an industry in the United States is being, or is likely to be, injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

A public hearing was held on June 9, 1970. Notice of the investigation and hearing was published in the FEDERAL REGISTER of May 6, 1970 (35 F.R. 7156).

In arriving at a determination in this case, the Commission gave due consideration to all written submissions from interested parties, evidence adduced at the hearing, and all factual information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of the investigation, the Commission has determined that an industry in the United States is being injured by reason of the importation of whole dried eggs from Holland sold, or likely to be sold, at less than fair value within the meaning of the Antidumping Act, 1921, as amended.[1]

[1] Commissioners Clubb and Moore determined there was injury and Commissioners Sutton and Leonard determined there was no injury. Pursuant to section 201(a) of the Anti-dumping Act, the Commission is deemed to have made an affirmative determination when the Commissioners voting are equally divided.

STATEMENT OF REASONS FOR AFFIRMATIVE DETERMINATION BY COMMISSIONERS CLUBB AND MOORE

We find that a domestic industry is being injured and is threatened with future injury as a result of the importation of whole dried eggs from Holland at less than fair value, and accordingly, antidumping duties must be collected in the future. The reasons for this finding are set out below.

In order for dumping duties to be applied, the statute requires that there must be a finding of (1) sales at less than fair value and (2) resulting injury to an industry in the United States.[2] The Secretary of the Treasury has already found that whole dried eggs from Holland are being imported at less than fair value, and this finding is binding on us here. Accordingly, the only issue before us is whether the sales at less than fair value have caused injury, or are threatening injury, to an industry in the United States.

In earlier cases it has been pointed out that the injury requirement was included in the Antidumping Act for administrative reasons, and that the amount of injury required to trigger the statute in any case must be viewed with that purpose in mind.[3] Accordingly, the Commission has ruled that the injury requirement of the Antidumping Act is satisfied by a showing of anything more than a trivial or inconsequential effect on the domestic industry: Cast Iron Soil Pipe from Poland (AA1921–50, September 1967); Pig Iron from East Germany, Czechoslovakia, Romania, and the U.S.S.R. (AA1921–52, 53, 54, and 55, September 1968).

The question before us in this case, therefore, is whether the imports of whole dried eggs from Holland at less than fair value are having more than a trivial or inconsequential effect on a domestic industry. It appears to us that they are.

Whole dried eggs are produced almost as a byproduct of egg processing. When shell eggs arrive at a processing plant, other uses such as fresh shell eggs, liquid eggs, frozen eggs, dried egg albumen and yolks are filled first. Those eggs which are injured in such processing or which are left over are further processed into whole dried eggs. These whole dried eggs are used principally by bakeries in biscuits, rolls, cookies, and candy and by the premix industry in cake, pie, pancake, waffle, and doughnut mixes. They are also used by producers of noodles, mayonnaise, and breadings such as those used for frying chickens.

The U.S. market for whole dried eggs is supplied by 20 domestic egg processing firms and by imports. Since there are differences between the high quality domestically produced product and the somewhat lower quality Dutch whole dried eggs, they cannot always be used for the same purpose, but are interchangeable for many uses, notably noodles, bakery products and certain mixes. They are not interchangeable for certain other uses, for example, certain premixes. Nonetheless, there is a substantial area of competition between the domestic product and whole dried eggs imported from Holland.

Not only is there direct competition between the Dutch and the domestically produced whole dried egg for many purposes, but also it appears that imports of the Dutch whole dried eggs have been rapidly increasing primarily as a result of the unfairly low price at which they are sold. The Dutch share of the U.S. market rose from 0 percent in 1965 to 1 percent in 1966, to 3 percent in 1967 and 1968, and to 7 percent in 1969.[4] Neither the rate of increase in the Dutch share of the domestic market nor the share attained in 1969 can be considered inconsequential.

Moreover, it seems clear that the increasing Dutch market share is directly attributable to the ability of the Dutch exporters to sell at less than fair value. Users of whole dried eggs have been able to purchase the Dutch product at prices as much as a third lower than the price of the domestic product. In many cases, both the domestic and imported products are used for the same purpose.[5] This price difference has resulted in a loss of sales by domestic producers, and has depressed the price received by domestic producers below that which would have prevailed had the Dutch product not been available at less than fair value.

Under these circumstances, it seems clear to us that the U.S. industry producing whole dried eggs (1) has been injured by reason of the importation of whole dried eggs from Holland at less than fair value and (2) is threatened with future injury if such imports of whole dried eggs from Holland at less than fair value are permitted to continue.

STATEMENT OF REASONS FOR NEGATIVE DETERMINATION OF COMMISSIONERS SUTTON AND LEONARD

In our opinion no industry is being, or is likely to be, injured, or prevented from being established, by reason of the imports of whole dried eggs[6] from Holland sold, or likely to be sold, at less than fair value (LTFV). To understand our reasons for this opinion, it is necessary to view the overall competitive conditions in the domestic market for eggs in their various forms and then discuss how the whole dried eggs from Holland have been utilized in such market.

How eggs are merchandised. In today's merchandising methods virtually all poultry eggs are sold fresh in the shell, or are sold unshelled in liquid, frozen, or dried forms. From the standpoint of most consumers, the most desirable form of the eggs is fresh in the shell and the other forms in the order above described become progressively less desirable, yet progressively more economical to store and to transport. Moreover, unshelled eggs can be separated into albumen (egg whites), yolks, or made into blends thereof (which are also produced in liquid, frozen, or dried forms). These products have special attractions to certain consumers some of whom can only

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[2] The Antidumping Act provides in pertinent part as follows:

"Whenever the Secretary of the Treasury * * * determines that a class or kind of foreign merchandise is being, or is likely to be, sold in the United States or elsewhere at less than its fair value, he shall so advise the United States Tariff Commission, and the said Commission shall determine within 3 months thereafter whether an industry in the United States is being or is likely to be injured * * * by reason of the importation of such merchandise into the United States. * * *". 19 U.S.C. § 130(a)

[3] For example, in Cast Iron Soil Pipe it was observed that,

In order to relieve the Customs Bureau of the necessity of examining every importation for possible violation, the injury test was included. Congress thus made clear that it did not intend that every import sold at less than fair value should be subjected to dumping duties. If a competitive article is not produced in the United States, or if the imported article competes only peripherally in the same geographic or product market, Congress has provided for the consumer to benefit from the lower prices, rather than the domestic producer from peripheral protection. But where the competition is direct, and the price is unfair, Congress has insisted that the dumping duties be imposed. Cast Iron Soil Pipe from Poland, AA 1921–50 (September 1967), pp. 18–19 (concurring opinion).

[4] The following table shows U.S. apparent consumption of whole dried eggs, imports from Holland, and the Dutch share of the U.S. market in recent years.

Year	U.S. apparent consumption (1,000 pounds)	Imports from Holland (1,000 pounds)	Dutch share of U.S. Market (percent)
1965	9,806	0	0
1966	9,258	110	1
1967	14,249	368	3
1968	14,851	375	3
1969	9,909	712	7

[5] Six purchases of whole dried eggs from Holland imported during the period December 1968–March 1970 were made by users who also reported purchasing U.S. whole dried eggs within 7 days of purchasing the imports. In each case, the purchaser indicated that Dutch and U.S. whole dried eggs were being used for the same purpose. In the following table, prices paid for the Dutch and U.S. products are compared.

Month, year of purchases	Price paid per pound (delivered)		Amount price of Dutch product below price of U.S. product
	Dutch whole dried eggs	U.S. whole dried eggs	
3–69	$0.95	$1.105	$0.155
1–70	1.25	1.55	.30
2–70	1.15	1.40	.25
2–70	1.16	1.435	.275
3–70	1.19	1.19	.0
3–70	1.10	1.20	.10

[6] The term "whole dried eggs" means eggs removed from the shell and subsequently dried without any separation of the yolks from the albumen.

use the albumen or yolks, and some of whom want more or less yolk in their products. Of all the eggs, processed eggs, and egg products heretofore mentioned, dried whole eggs are considered to be the "last resort" product when made by most egg processors. They are generally produced in the largest quantity when fresh eggs are most plentiful in supply in relation to the demand for the other forms of eggs, processed eggs, and egg products.

Grades of processed eggs. Whole dried eggs and dried processed eggs are produced from varying qualities of eggs (the eggs may or may not be candled and their ages may vary) which are processed in differing ways so that the palatability and shelf life of the products are not the same. The palatability of dried eggs may score from 0 to 8. Eggs below score 5 are generally not acceptable in commercial transactions. The shelf life of dried eggs may vary from 3 weeks to 6 months or more depending on how carefully the eggs are selected, processed, and stabilized. The qualities of a high score and long shelf life necessarily increase production costs and command a higher price for such dried eggs than the prices for lower score, shorter shelf-life eggs.

Use of whole dried eggs—general. Whole dried eggs are used principally by bakeries in biscuits, rolls, and cookies; by confectioners in candies; by the premix industry in cake, pie, pancake, waffle, and doughnut mixes; and by producers of noodles and breadings such as are used in preparing fried chicken. The need for a high-score palatability and long shelf life in dried eggs varies according to the product in which they are used and according to the standards of the manufacturers.

Conditions of competition. The LTFV imports of whole dried eggs from Holland have had a lower palatability score than the score of most whole dried eggs sold in the domestic market and similarly have had a shorter shelf life. These circumstances warrant a price differential between the U.S. and Dutch dried eggs when weighing the impact of the LTFV imports on the whole dried egg industry in the United States. In this case, a precise determination of what constitutes an acceptable price differential cannot be expressed in terms of cents per pound for the product. Our determination has had to be based on the circumstantial factors which reflect the conditions of competition in the market place.

Available information indicates that about one half of the LTFV imports were purchased by four domestic egg processors to supplement their supplies of whole dried eggs. The other half of the imports were sold by distributors in competition with domestic egg processors. By far the preponderance of the domestic producers of all processed eggs,[7] measured in terms of numbers of plants or in terms of volume of production, indicated that the LTFV imports of whole dried eggs have not been sold at prices which have been in any way injurious to the prices of processed eggs in the market. Moreover, the preponderance of the domestic producers of whole dried eggs, measured in either terms, also indicated that the LTFV imports of whole dried eggs have not been sold at prices which have been in any way injurious to the prices of whole dried eggs in the market.[8] There was no indication of a significant loss of sales of whole dried eggs as a result of the LTFV imports. On the other hand, there was evidence that domestic producers, including the complaining producer,[9] on occasion were unable to supply whole dried eggs to would-be buyers.

About 42 percent of the LTFV imports were used in a limited category of bakery products, 33 percent in egg noodles, and 25 percent in pancake and waffle mixes. The evidence indicated that the palatability score of whole dried eggs was less important in these products than in some of the other consumer articles in which dried eggs are used. Further, the use of the imported LTFV eggs in bakery products and noodles could be immediate so that shelf life was not important. The use of whole dried eggs in premixes was said to extend the "shelf life" of the whole dried eggs beyond the time in which they would normally keep as dried eggs. Thus, we conclude that the quality of the LTFV imports limited their use, thereby limiting the price at which they might reasonably be sold.

Ultimate users of the LTFV imports were asked what they would have done if the Dutch dried eggs had not been available. Users of 31 percent of the eggs replied that they would have substituted other materials, in whole or in part, in their products, 52 percent would have obtained other imported dried eggs which cost only slightly more (but which would be of somewhat better quality), 12 percent said they would have used dried eggs from other sources, either domestic or foreign, 3 percent said they would have purchased domestic dried eggs, and 2 percent made no reply. A number of users reported that they purchased the Dutch dried eggs because they could not obtain an adequate supply of dried eggs from domestic producers. There was uncontroverted testimony that with respect to some users there is a ceiling price above which they cannot economically use whole dried eggs in their products. Thus, the imports undoubtedly prevented some market disruption that might have occurred had the consumers shifted to substitutes or leaner formulas, potential shifts from which they might, never revert.

The average annual purchase price of Dutch dried eggs has been lower than the average annual price of all imported dried eggs in three out of the last 4 calendar years. However, the lower prices in the 3 years are attributable to the fact that Danish dried eggs were the principal source of foreign dried eggs; these dried eggs were often of the best known quality in the trade thereby warranting much higher prices. These higher prices caused the average import price to be higher than that which might be reasonably expected for the Dutch dried eggs which were generally sold at or above prevailing world prices for eggs of like kind and quality. These factors indicate that the pricing practices of the Dutch whole dried egg producers have not been anticompetitive in nature nor unfair in principle.

The latest pricing data on whole dried eggs in the domestic market indicate that the Dutch eggs are being sold at prices somewhat below the prices of the domestic eggs, but that the price differentials merely compensate for the differences in quality and shelf-life of the two products.

Conclusion. In summary, the foregoing circumstances indicate that imports of the whole dried eggs from Holland, although sold at LTFV for export to the United States, are not being, and are not likely to be, resold in the domestic market in competition with domestic whole dried eggs at prices which are less than the price of the comparable domestic product. Moreover, the sales of the LTFV imports appear to have had no significant effect on prices, customer patterns, or the sales volume of domestic whole dried eggs or other domestic processed eggs. Thus, there appears to be no basis for a determination that imports of whole dried eggs from Holland, sold at LTFV, are causing or are likely to cause, injury to an industry in the United States.

[SEAL] KENNETH R. MASON,
Secretary.

[F.R. Doc. 70-10175; Filed, Aug. 4, 1970; 8:50 a.m.]

[7] There are about 20 firms in the United States which process eggs.

[8] The price trend in the last 1½ years, when imports were at their peak, was sharply upward with the price of domestic dried eggs rising more rapidly than the price of the Dutch eggs.

[9] The complainant in this case did not respond to a Commission questionnaire designed to reveal information relevant to this matter.

DEPARTMENT OF LABOR

Office of the Secretary

CERTIFICATION OF ELIGIBILITY OF WORKERS TO APPLY FOR ADJUSTMENT ASSISTANCE

Notice of Investigations

After reviewing the Tariff Commission's reports on its investigations of the five shoe worker cases under section 301(c)(2) of the Trade Expansion Act of 1962 (Reports Nos. TEA-W-15, TEA-W-16, TEA-W-17, TEA-W-18, and TEA-W-19), the President decided, under the authority of section 330(d)(1) of the Tariff Act of 1930 as amended, to consider the findings of those Commissioners who found in the affirmative as the finding of the Commission. Accordingly, he has authorized the Secretary of Labor that he may certify as eligible to apply for adjustment assistance the involved groups of workers of the Benson Shoe

Co., Lynn, Mass.; the Dartmouth Shoe Co., Brockton, Mass.; the Hartman Shoe Manufacturing Co., Haverhill, Mass.; the Lemar Shoes, Inc., Haverhill, Mass.; and the Eagle Shoe Manufacturing Co., Everett, Mass.

In view of the Tariff Commission reports, the President's authorization, and the responsibilities delegated to the Secretary of Labor under section 8 of Executive Order 11075 (28 F.R. 473), the Director, Office of Foreign Economic Policy, Bureau of International Labor Affairs, has instituted investigations, as provided in 29 CFR 90.5 and this notice. The investigations relate to the determination of whether any of the groups of workers covered by the Tariff Commission reports should be certified as eligible to apply for adjustment assistance, provided for under title III, chapter 3, of the Trade Expansion Act of 1962, including the determinations of related subsidiary subjects and matters, such as the date unemployment or underemployment began or threatened to begin and the subdivisions of the firms involved to be specified in any certifications to be made, as more specifically provided in Subpart B of 29 CFR Part 90.

Interested persons should submit written data, views, or arguments relating to the subjects of investigations to the Director, Office of Foreign Economic Policy, U.S. Department of Labor, Washington, D.C. 20210, on or before August 6, 1970.

Signed at Washington, D.C., this 28th day of July 1970.

EDGAR I. EATON,
Director, Office of Foreign Economic Policy.

[F.R. Doc. 70-10114; Filed, Aug. 4, 1970; 8:45 a.m.]

CERTIFICATION OF ELIGIBILITY OF WORKERS TO APPLY FOR ADJUSTMENT ASSISTANCE

Notice of Investigations

The Department of Labor has received a Tariff Commission report containing an affirmative finding under section 301(c)(2) of the Trade Expansion Act of 1962 with respect to its investigation of a petition for determination of eligibility to apply for adjustment assistance filed on behalf of workers of the Wood & Brooks Co., Rockford Plant, located at Rockford, Ill. (No. TEA-W-22). In view of the report and the responsibilities delegated to the Secretary of Labor under section 8 of Executive Order 11075 (28 F.R. 473), the Director, Office of Foreign Economic Policy, Bureau of International Labor Affairs, has instituted an investigation, as provided in 29 CFR 90.5 and this notice. The investigation relates to the determination of whether any of the group of workers covered by the Tariff Commission report should be certified as eligible to apply for adjustment assistance, provided for under title III, chapter 3, of the Trade Expansion Act of 1962, including the determinations of related subsidiary subjects and matters, such as the date unemployment or underemployment began or threatened to begin and subdivision of the firm involved to be specified in any certification to be made, as more specifically provided in Subpart B of 29 CFR Part 90.

Interested persons should submit written data, views, or arguments relating to the subjects of investigation to the Director, Office of Foreign Economic Policy, U.S. Department of Labor, Washington, D.C., on or before August 7, 1970.

Signed at Washington, D.C., this 28th day of July 1970.

EDGAR I. EATON,
Director, Office of Foreign Economic Policy.

[F.R. Doc. 70-10115; Filed, Aug. 4, 1970; 8:45 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

JULY 31, 1970.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42011—*Fertilizer and fertilizer materials to points in southern territory.* Filed by Illinois Freight Association, agent (No. 360), for interested rail carriers. Rates on fertilizer and fertilizer materials, in carloads, as described in the application, from points in Illinois Freight Association territory, to points in southern territory.

Grounds for relief—Revision of commodity description.

FSA No. 42013—*All rail LCL class rates between points in southwestern territory.* Filed by Joe E. Kinard, agent (No. 91), for and on behalf of The Atchison, Topeka, and Santa Fe Railway Co. Rates on various commodities moving on all-rail LCL class rates, between points in southwestern territory, including Mississippi River crossings, Memphis, Tenn., and south.

Grounds for relief—Motortruck competition.

Tariffs—Supplement 27 to Southwestern Motor Freight Bureau, Inc., agent, tariff MF-ICC 16, and 7 other schedules named in the application.

AGGREGATE-OF-INTERMEDIATES

FSA No. 42012—*Increased passenger fares—Penn Central Transportation Co.* Filed by Penn Central Transportation Co. (No. 1), for itself and interested rail carriers. This is in relation to the transportation of passengers, between Readville, Hyde Park, and Mount Hope, Mass., on the one hand, and points on the New Haven District East Greenwich, R.I., to New York, on the other, also on connecting lines in the United States west and south of New York, N.Y., on the other.

Grounds for relief—Establishment of new fares of applicant carriers and maintenance of present through fares by connecting carriers.

Tariffs—Master Table Tariffs Nos. 39 and 40, ICC Nos. P-13 and P-14, respectively.

FSA No. 42014—*All rail LCL class rates between points in southwestern territory.* Filed by Joe E. Kinard, agent (No. 92), for and on behalf of The Atchison, Topeka, and Santa Fe Railway Co. Rates on various commodities moving on all-rail LCL class rates, between points in southwestern territory, including Mississippi River crossings, Memphis, Tenn., and south.

Grounds for relief—Maintenance of depressed rates published to meet market competition without use of such rates as factors in constructing combination rates.

Tariffs—Supplement 27 to Southwestern Motor Freight Bureau, Inc., agent, tariff MF-ICC 16, and 7 other schedules named in the application.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[F.R. Doc. 70-10163; Filed, Aug. 4, 1970; 8:49 a.m.]

[Notice 125]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JULY 30, 1970.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 30107 (Sub-No. 1 TA), filed July 27, 1970. Applicant: EARIE C. HELM, JR., AND KENNETH S. HELM, a partnership doing business as HELM BROS., Rural Delivery No. 4, Easton, Pa. 18042. Applicant's representative: Kenneth S. Helm (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over

irregular routes, transporting: *Beater mill aggregate,* in bulk, in dump vehicles from Newton, N.J., to Mount Bethel, Pa., for 180 days. Supporting shipper: L. F. Taylor, Inc., Mount Bethel, Pa. 18343. Send protests to: F. W. Doyle, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 900 U.S. Customhouse, Second and Chestnut Streets, Philadelphia, Pa. 19106.

No. MC 82492 (Sub-No. 42 TA), filed July 23, 1970. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, Post Office Box 2853, Kalamazoo, Mich. 49003. Applicant's representative: William C. Harris (same address as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Such commodities as are manufactured, sold, or distributed by persons engaged in the manufacturing, processing and milling of grain products,* from Chelsea, Mich., to points in Iowa, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, Wisconsin, and to those points in Illinois in the St. Louis, Mo.; Davenport, Iowa; Moline and Rock Island commercial zones, for 180 days. Supporting shipper: Clarence L. Athanson, General Manager, Traffic and Distribution, Chelsea Milling Co., Chelsea, Mich. 48118. Send protests to: C. R. Flemming, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 225 Federal Building, Lansing, Mich.

No. MC 83539 (Sub-No. 285 TA), filed July 16, 1970. Applicant: C & H TRANSPORTATION CO., INC., 1936–2010 West Commerce Street, Post Office Box 5976, Dallas, Tex. 75222. Applicant's representative: Rex Hall, Post Office Box 5976, Dallas, Tex. 75222. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Car wash and truck wash equipment,* from the plant and warehouse sites of U-Profit Corp. in Waukesha County, Wis., and from ports of entry at New York, N.Y., and Milwaukee, Wis., to points in Alabama, Arkansas, California, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, and Wisconsin, for 180 days. NOTE: Carrier does not intend to tack authority. Supporting shipper: U-Profit Corp., 706 North Barstow Street, Waukesha, Wis. Send protests to: E. K. Willis, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, 513 Thomas Building, 1314 Wood Street, Dallas, Tex. 75202.

No. MC 85255 (Sub-No. 38 TA), filed July 27, 1970. Applicant: PUGET SOUND TRUCK LINES, INC., Pier 62, Seattle, Wash. 98101. Applicant's representative: Clyde H. MacIver, 3712 Seattle First National Bank Building, Seattle, Wash. 98104. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Canned vegetables,* from LaConner, Wash., to Bellingham and Seattle, Wash., for 150 days. NOTE: Applicant states it intends to interline with railheads at Bellingham and Seattle, Wash. Supporting shipper: San Juan Islands Cannery, LaConner, Wash. 98257. Send protests to: E. J. Casey, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 6130 Arcade Building, Seattle, Wash. 98101.

No. MC 102567 (Sub-No. 135 TA), filed July 27, 1970. Applicant: EARL GIBBON TRANSPORT, INC., 4295 Meadow Lane, Post Office Drawer 5357, Bossier City, La. 71010. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Sulfuric acid,* in bulk, in tank vehicles, from Caddo Parish, La., to points in Arkansas, Mississippi, and Texas, for 180 days. Supporting shipper: Olin Chemicals, 120 Long Ridge Road, Stamford, Conn. 06904. Send protests to: W. R. Atkins, District Supervisor, Bureau of Operations, Interstate Commerce Commission, T–4009 Federal Building, 701 Loyola Avenue, New Orleans, La. 70113.

No. MC 110322 (Sub-No. 1 TA), filed July 27, 1970. Applicant: HERBERT L. STUGELMAYER, doing business as HERB STUGELMAYER, 818 Seventh Avenue SE., Aberdeen, S. Dak. 57401. Applicant's representative: A. R. Fowler, 2288 University Avenue, St. Paul, Minn. 55114. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Prepared feeds,* from Mankato, Minn., to Aberdeen, S. Dak., for 180 days. Supporting shipper: Hub City Feed & Seed, Sixth Avenue SE., and C&NW Tracks, Aberdeen, S. Dak. 57401, Larry Wheetnig, Manager. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Building, Pierre, S. Dak. 57501.

No. MC 111545 (Sub-No. 142 TA), filed July 27, 1970. Applicant: HOME TRANSPORTATION COMPANY, INC., Post Office Box 6426, Station A, 1425 Franklin Road SE., Marietta, Ga. 30060. Applicant's representative: Robert E. Born, Suite 221, First National Bank Tower, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles, (1) between points in Alabama, Florida, Georgia, Louisiana, Mississippi, and South Carolina, and (2) between points in Alabama, Florida, Georgia, Louisiana, Mississippi, and South Carolina, on the one hand, and, on the other, points in Arkansas, Delaware, Kentucky, Missouri, North Carolina, Pennsylvania, and Tennessee, Texas, Virginia, West Virginia, and the District of Columbia, for 180 days. Supporting shippers: There are approximately (55) 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: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1242 West Peachtree Street NW., Atlanta, Ga. 30309.

No. MC 113908 (Sub-No. 207 TA), filed July 27, 1970. Applicant: ERICKSON TRANSPORT CORPORATION, 2105 East Dale Street, Post Office Box 3180, Springfield, Mo. 65804. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Wine,* in bulk, in tank vehicles, from Canandaigua, N.Y., to Dallas, Tex., for 180 days. Supporting shipper: Canandaigua Industries Co., Inc., 116 Buffalo Street, Canandaigua, N.Y. 14424. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1100 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 114273 (Sub-No. 69 TA), filed July 9, 1970. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., Post Office Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Robert E. Konchar, 315 Commerce Exchange Building, 2720 First Avenue NE., Cedar Rapids, Iowa 52406. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses* as described in sections A and C of appendix I to the report in *Description in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and/or storage facilities utilized by Armour & Co. at or near St. Joseph, Mo., to points in Connecticut, Delaware, Indiana, Massachusetts, Maryland, Maine, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and Washington, D.C. Restricted to the transportation of traffic originating at said origin point and destined to the above specified destinations, for 180 days. Supporting shipper: V. P. Adrian, Supervisor Transportation, Fresh Meats Division, Armour & Co., 111 East Wacker Drive, Chicago, Ill. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 332 Federal Building, Davenport, Iowa 52801.

No. MC 128220 (Sub-No. 6 TA), filed July 23, 1970. Applicant: RALPH LATHAM, doing business as LATHAM TRUCKING COMPANY, Post Office Box 508, Burnside, Ky. 42519. Applicant's representative: Robert M. Pearce, Post Office Box E, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Charcoal, charcoal briquets, vermiculite other than crude, hickory chips, charcoal lighter fluid, and spices and sauces* used or useful in outdoor cooking, from Kingsford Co.'s subsidiary plant, Cumberland Charcoal Corp., approximately 2 miles from Burnside, Ky., to points in Virginia, Ohio, Indiana, Illinois, Michigan, Wisconsin, Minnesota, and Iowa, for 180 days. Supporting shipper: Levern N. Forseth, Traffic Manager, Kingsford Co., 940 Commonwealth Building, Post Office Box

1033, Louisville, Ky. 40201. Send protests to: R. W. Schneiter, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 222 Bakhaus Building, 1500 West Main Street, Lexington, Ky. 40505.

No. MC 133989 (Sub-No. 1 TA), filed July 27, 1970. Applicant: LAWRENCE H. WITTKOPF, Route 2, Box 90, Spokane, Wash. 99207. Applicant's representative: Joseph O. Earp, 411 Lyon Building, 607 Third Avenue, Spokane, Wash. 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clay*, from clay pit near Tensed, Idaho, to Mica, Wash., for 150 days. Supporting shipper: Interpace Corp., Mica, Wash. 99023. Send protests to: District Supervisor Lawrence C. Taylor, Interstate Commerce Commission, Bureau of Operations, 401 U.S. Post Office, Spokane, Wash. 99201.

No. MC 134460 (Sub-No. 1 TA) (Amendment), filed June 9, 1970, published in the FEDERAL REGISTER issue of June 20, 1970, and republished as amended, this issue. Applicant: AMERICAN TRANSPORT SYSTEM, INC., 871 Charter Street, Redwood City, Calif. 94061. Applicant's representative: E. H. Griffiths, 433 Turk Street, San Francisco, Calif. 94102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coffee, tea, dessert preparations, dessert topping, beverage preparations, milk or cream substitutes, yeast, vinegar, malted syrup, corn syrup, corn sugar, oleomargarine, vegetable oil shortening, cooking or salad oil, edible nuts, corn nuts, peanuts, peanut butter, peanut oil, candy and confectionery, chewing gum, sunflower seeds, potato chips, snack items such as: chips, twists or puffs, flour meal dough or mush, baking powder, bakery goods, flour, edible, breadmaking compounds, dough enriching compounds, frozen eggs, frozen fruit, preserved fruit, salad dressing, soup mixes, seasoning salts, seasoning compounds, catsup, mustard and table sauces, jams, jellies, preserves and flavoring syrups, prepared coconut, dehydrated vegetables, spaghetti, noodles and macaroni, coffee making and beverage preparation equipment*, from San Francisco, Oakland, and Los Angeles, Calif., to points within 100 miles of Phoenix, Ariz., with interline privileges to other Arizona points beyond, for 180 days. NOTE: Applicant states to interline with carriers for points over 100 miles of Phoenix, Ariz. The purpose of this republication is to redescribe the commodity description. Supporting shipper: Standard Brands Inc., 300 Paul Avenue, San Francisco, Calif. 94124. Send protests to: Claud W. Reeves, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, Calif. 94102.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Secretary.

[F.R. Doc. 70-10155; Filed, Aug. 4, 1970; 8:48 a.m.]

[Notice 126]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JULY 31, 1970.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 22229 (Sub-No. 63 TA) (Clarification), filed July 7, 1970, published in the FEDERAL REGISTER issue of July 16, 1970, and republished as clarified, this issue. Applicant: TERMINAL TRANSPORT CO., INC., 248 Chester Avenue SE., Atlanta, Ga. 30316. Applicant's representative: Ralph B. Matthews (same address as above). 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 Birmingham, Ala., and Atlanta, Ga., from Birmingham over Interstate Highway 20 (also using portions of U.S. Highway 78 and access roads as are necessary for incompleted segments of Interstate Highway 20) to Atlanta, and return over the same route, serving no intermediate points, for 180 days. NOTE: Applicant intends to tack with MC 22229 and Subs thereto at Atlanta, Ga. Supporting shippers: There are approximately 16 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: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 209, 1252 West Peachtree Street NW., Atlanta, Ga. 30309. The purpose of this republication is to show that regular route authority is sought and to clarify the route description thereto.

No. MC 52574 (Sub-No. 41 TA), filed July 23, 1970. Applicant: ELIZABETH FREIGHT FORWARDING CORP., 120 South 20th Street, Irvington, N.J. 07111. Applicant's representative: Edward Bowes, 744 Broad Street, Newark, N.J. 07102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bakery products*, (1) from Irvington and Wayne, N.J., to Mansfield, Mass., and the return of *stale or damaged bakery products and empty containers;* (2) from Wayne, N.J., to points in Pennsylvania on and east of Route 15, Baltimore, Md., and Washington, D.C., for 150 days. Supporting shipper: Borden Inc., Foods Division, Drake Bakeries, 350 Madison Avenue, New York, N.Y. 10017. Send protests to: District Supervisor Robert S. H. Vance, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, N.J. 07102.

No. MC 96892 (Sub-No. 2 TA), filed July 27, 1970. Applicant: H. GEORGE RIPLEY AND DOROTHY R. RIPLEY, a partnership, doing business as BUTTE-BOZEMAN DELIVERY SERVICE, Post Office Box 1072, 712 East Main, Bozeman, Mont. 59715. Applicant's representative: H. George Ripley (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except commodities in bulk and commodities which, because of weight and size require special equipment), from Bozeman, Mont., to West Yellowstone, Mont., over U.S. Highway 191, serving all intermediate points; and authority to tack with its existing authority in MC 96892 and subs thereunder at Bozeman, Mont., for 180 days. NOTE: Applicant intends to tack with its existing authority. Supporting shippers: There are approximately 10 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 J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 251 U.S. Post Office Building, Billings, Mont. 59101.

No. MC 115180 (Sub-No. 59 TA), filed July 16, 1970. Applicant: ONLEY REFRIGERATED TRANSPORTATION, INC., 408 West 14th Street, New York, N.Y. 10014. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to report in *Descriptions in Motor Carrier Certificates*, 71 M.C.C. 209 and 766 (except hides and commodities in bulk) from the plantsite and storage facilities utilized by Sioux Beef Co., at Omaha, Nebr., to points in New York, New Hampshire, Connecticut, Vermont, Maine, New Jersey, Massachusetts, Rhode Island, Pennsylvania, West Virginia, Delaware, Maryland, Virginia, District of Columbia. Restricted to the transportation of traffic

originating at the plantsite and storage facilities utilized by Sioux Beef Co., at or near Omaha, Nebr., and destined to the above-named destination points, for 150 days. Supporting shipper: Needham Packing Co., Inc., Sioux Beef Division, 4003 Dahlman Avenue, Omaha, Nebr. 68107. Send protests to: Paul W. Assenza, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 128570 (Sub-No. 14 TA), filed July 23, 1970. Applicant: BROOKS ARMORED CAR SERVICE, INC., 13 East 35th Street, Wilmington, Del. 19802. Applicant's representative: L. Agnew Myers, Jr., Suite 1122, Warner Building, E at 13th Street NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Small parts*, used in the manufacture, repair, replacement, or servicing of computers, data processing, dictating, reproduction, typewriting, or office business machines, including emergency rental or loan machines of the above description; and supplies, materials, or articles, used with, or pertaining thereto, between Wilmington, Del., and points in Caroline, Cecil, Dorchester, Kent, Queen Annes, Somerset, Talbot, Wicomico, and Worcester Counties, Md., for 180 days. Supporting shipper: International Business Machines Corp., Wilmington, Del. 19899, Peter D. Riggs, FE Administration Manager. Send protests to: Paul J. Lowry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 206 Old Post Office Building, 129 East Main Street, Salisbury, Md. 21801.

No. MC 134082 (Sub-No. 3 TA) (Correction), filed June 8, 1970, published in the FEDERAL REGISTER issue of June 20, 1970, and republished as part corrected, this issue. Applicant: K. H. TRANSPORT, INC., R.F.D. 2, Ellicott City, Md. 21043. Applicant's representative: Chester A. Zyblut, 1522 K Street NW., Washington, D.C. 20005. NOTE: The purpose of this partial republication is to show the corrected MC number as MC 134082 (Sub-No. 3 TA), in lieu of MC 128763 (Sub-No. 6 TA). The rest of the application remains as previously published.

No. MC 134286 (Sub-No. 3 TA), filed July 17, 1970. Applicant: ARCTIC TRANSPORT, INC., 1005 West South Omaha Bridge Road, Council Bluffs, Iowa 51501. Applicant's representative: Charles J. Kimball, Post Office Box 2028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products, and articles distributed by meat packinghouses*, as defined in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 from the plantsite and storage facilities of Beefland International, Inc., at or near Council Bluffs, Iowa, and Omaha, Nebr., to points in New Jersey, Massachusetts, Pennsylvania, New York, and Maryland, restricted to traffic originating at named origin points and destined to points in named States, for 150 days. Supporting shipper: Beefland International of Council Bluffs, Iowa, Council Bluffs, Iowa (Ray Burke, Vice President in charge of Marketing). Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 705 Federal Office Building, Omaha, Nebr. 68102.

No. MC 134776 TA, filed July 16, 1970. Applicant: MILTON TRUCKING, INC., Rural Delivery 1, Milton, Pa. 17847. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Gym mats, materials, and supplies* (except in bulk), between the facilities of Reslite Co. (Northumberland County), Northumberland, Pa., on the one hand, and, on the other, points in Ohio, Indiana, Illinois, Iowa, Missouri, Michigan, Wisconsin, Minnesota, Massachusetts, Rhode Island, Maine, New Hampshire, Vermont, Virginia, North Carolina, South Carolina, Georgia, Florida, and West Virginia, under contract with the Reslite Co., Northumberland, Pa., for 150 days. Supporting shipper: Reslite Sports Products, Inc., Post Office Box 764, Sunbury, Pa. Send protests to: Robert W. Ritenour, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 508 Federal Building, Post Office Box 869, Harrisburg, Pa. 17108.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[F.R. Doc. 70-10156; Filed, Aug 4, 1970; 8:49 a.m.]

[Notice 15]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

JULY 31, 1970.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules—Motor Carriers of Passengers, 1969 (49 CFR 1042.2(c)(9)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.2(c)(9)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PASSENGERS

No. MC 2890 (Deviation No. 85), AMERICAN BUSLINES, INC., 1501 South Central Avenue, Los Angeles, Calif. 90201, filed July 21, 1970. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over a deviation route as follows: Between Arizola, Ariz., and junction Interstate Highway 8 and Arizona Highway 84 approximately 28 miles west of Arizola, Ariz., over Interstate Highway 8, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: Between Tucson, Ariz., and Gila Bend, Ariz., over Arizona Highway 84.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[F.R. Doc. 70-10157; Filed, Aug. 4, 1970; 8:49 a.m.]

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

JULY 31, 1970.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

State Docket No. A 52032, filed July 10, 1970. Applicant: THOMPSON BROS., INC., 1225 Sixth Street, San Francisco, Calif. 94107. Applicant's representative: Silver, Rosen & Johnson, Professional Corporation, 140 Montgomery Street, San Francisco, Calif. 94104. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *General commodities*, Part I. Between the following points, serving all intermediate points on the said routes and off-route points within 15 miles thereof: (1) Redding and Los Angeles on U.S. Highway 99. (2) Red Bluff and San Ysidro on Interstate Highway 5. (3) Williams and Grass Valley on California Highway 20. (4) Grass Valley and Placerville on California Highway 49. (5) Junction of U.S. Highway 99 and California Highway 70 south of Paradise and U.S. Highway 99 and California Highway 70 near Trobridge. (6) Marysville and Roseville on California Highway 65. (7) Vacaville and Dunnigan on Interstate Highway 505. (8) San Francisco and Auburn on Interstate Highway 80. (9) San Francisco and Placerville on

U.S. Highway 50. (10) To and from and between all points and places located in San Francisco Territory as described in Part II set forth below, and points located within 15 miles of the boundaries of said territory. (11) San Rafael and San Jose on California Highway 17. (12) Vallejo and San Jose on Interstate Highway 680. (13) Oakland and Pacheco on California Highway 24. (14) Pinole and Stockton on California Highway 4. (15) Lodi and Santa Rosa on California Highway 12. (16) Antioch and Sacramento on California Highway 160. (17) Calistoga and Vallejo on California Highway 29.

(18) Ignacio and Vallejo on California Highway 37. (19) San Francisco and Carmel on California Highway 1. (20) San Francisco and Salinas on U.S. Highway 101. (21) Junction California Highway 156 and U.S. Highway 101 near San Juan Batista and junction of California Highway 156 and California Highway 152 near San Felipe. (22) Gilroy and junction California Highway 152 and U.S. Highway 99 near Chowchilla on California Highway 152. (23) Junction California Highway 33 and U.S. Highway 50 near Banta and Maricopa on California Highway 33. (24) Colinga and Exeter on California Highway 198. (25) Fresno and junction California Highway 63 and California Highway 180 on California Highway 180. (26) Junction California Highway 63 and California Highway 180 and Visalia on California Highway 63. (27) Fresno and Kettleman City on California Highway 41. (28) Selma and Bakersfield on California Highway 43. (29) Exeter and Rosedale on California Highway 65. (30) To and from and between all points and places located in Los Angeles Basin Territory as described in Part III set forth below, and points located within 15 miles of the boundaries of said territory. (31) Pomona and Murietta on California Highway 71. (32) San Bernardino and San Diego on U.S. Highway 395. (33) Oceanside and Escondido on California Highway 78. (34) To and from and between all points and places located in San Diego Territory as described in Part IV set forth below, and points located within 15 miles of the boundaries of said territory. (35) Traversing on and over public highways, streets and roads between all points above authorized for operating convenience. (36) Between Salinas and Los Angeles over U.S. Highway 101, serving no intermediate points, for operating convenience only.

(37) Between Paso Robles and Fomosa on California Highway 46, serving no intermediate points, for operating convenience only. San Francisco Territory includes all the city of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County boundary line meets the Pacific Ocean; thence easterly along said boundary line to a point 1 mile west of U.S. Highway 101; southerly along an imaginary line 1 mile west of and paralleling U.S. Highway 101 to its intersection with Southern Pacific Co. right of way at Arastradero Road; southeasterly along the Southern Pacific Co. right of way to Pollard Road, including industries served by the Southern Pacific Co. spur line extending approximately 2 miles southwest from Simla to Permanente; easterly along Pollard Road to West Parr Avenue; easterly along West Parr Avenue to Capri Drive; southerly along Capri Drive to East Parr Avenue; easterly along East Parr Avenue to the Southern Pacific Co. right of way; southerly along the Southern Pacific Co. right of way to the Campbell-Los Gatos city limits; easterly along said limits and the prolongation thereof to the San Jose-Los Gatos Road; northeasterly along San Jose-Los Gatos Road to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to U.S. Highway 101; northwesterly along U.S. Highway 101 to Tully Road; northeasterly along Tully Road to White Road; northwesterly along White Road to McKee Road; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 17 (Oakland Road); northerly along State Highway 17 to Warm Springs; northerly along the unnumbered highway via Mission San Jose and Niles to Hayward; northerly along Foothill Boulevard to Seminary Avenue; easterly along Seminary Avenue to Mountain Boulevard; northerly along Mountain Boulevard and Moraga Avenue to Estates Drive; westerly along Estates Drive, Harbord Drive and Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland boundary line; northerly along said boundary line to the campus boundary of the University of California; northerly and westerly along the campus boundary of the University of California to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to U.S. Highway 40 (San Pablo Avenue); northerly along U.S. Highway 40 to and including the city of Richmond; southwesterly along the highway extending from the city of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco Waterfront at the foot of Market Street; westerly along said waterfront and shore line to the Pacific Ocean; southerly along the shore line of the Pacific Ocean to point of beginning.

Part III. Los Angeles Basin Territory includes that area embraced by the following boundary: Beginning at the point of the Ventura County-Los Angeles County boundary line intersects the Pacific Ocean; thence northeasterly along said county line to the point it intersects State Highway No. 118, approximately 2 miles west of Chatsworth; easterly along State Highway No. 118 to Sepulveda Boulevard; northerly along Sepulveda Boulevard to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the city of San Fernando; westerly and northerly along said corporate boundary to McClay Avenue; northeasterly along McClay Avenue and its prolongation to the Angeles National Forest boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest boundary to the county road known as Mill Creek Road; westerly along Mill Creek Road to the county road 3.8 miles north of Yucaipa; southerly along said county road to and including the unincorporated community of Yucaipa; westerly along Redlands Boulevard to U.S. Highway No. 99; northwesterly along U.S. Highway No. 99 to the corporate boundary of the city of Redlands; westerly and northerly along said corporate boundary to Brookside Avenue; westerly along Brookside Avenue to Barton Avenue; westerly along Barton Avenue and its prolongation to Palm Avenue; westerly along Palm Avenue to La Cadena Drive; southwesterly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to U.S. Highway No. 60; southwesterly along U.S. Highways Nos. 60 and 395 to the county road approximately 1 mile north of Perris; easterly along said county road via Nuevo and Lakeview to the corporate boundary of the City of San Jacinto; easterly, southerly and westerly along said corporate boundary to San Jacinto Avenue; southerly along San Jacinto Avenue to State Highway No. 74; westerly along State Highway No. 74 to the corporate boundary of the city of Hemet; southerly, westerly, and northerly along said corporate boundary to the right of way of The Atchison, Topeka, & Santa Fe Railway Co.; southwesterly along said right of way to Washington Avenue; southerly along Washington Avenue, through and including the unincorporated community of Winchester to Benton Road; westerly along Benton Road to the county road intersecting U.S. Highway No. 395, 2.1 miles north of the unincorporated community of Temecula; southerly along said county road to U.S. Highway No. 395; southeasterly along U.S. Highway No. 395 to the Riverside County-San Diego County boundary line; westerly along said boundary line to the Orange County-San Diego County boundary line; southerly along said boundary line to the Pacific Ocean; northwesterly along the shoreline of the Pacific Ocean to point of beginning.

Part IV. San Diego Territory includes that area embraced by the following boundary: Between points in California within an area bounded by a line beginning at the northerly junction of U.S. Highways 101E and 101W (4 miles north of La Jolla); thence easterly to Miramar on U.S. Highway 395; thence southeasterly to Lakeside on the El Cajon-Ramona Highway (State Highway 67); thence southerly to Bostonia on U.S. Highway 80; thence southeasterly to Jamul on State Highway 94; thence due south to the international boundary line, west to the Pacific Ocean and north along the coast to point of beginning. Applicant shall not transport any shipments of: (1) Used household goods and personal

effects not packed in accordance with the crated property requirements set forth in paragraph (d) of Item No. 10–C of Minimum Rate Tariff No. 4–A. (2) Automobiles, trucks, and buses, viz: New and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses, and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis. (3) Livestock, viz.: Bucks, bulls, calves, cattle, cows, dairy cattle, ewes, goats, hogs, horses, kids, lambs, oxen, pigs, sheep, sheep camp outfits, sows, steers, stags, or swine. (4) Liquids, compressed gases, commodities in semiplastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers, or a combination of such highway vehicles.

(5) Commodities when transported in bulk in dump trucks or in hopper-type trucks. (6) Commodities when transported in motor vehicles equipped for mechanical mixing in transit. (7) Cement. (8) Logs. (9) Commodities of unusual or extraordinary value. (10) Cleaning, scouring and washing compounds, textile softeners, laundry bleach, vegetable oil shortening, cooking oil, peanut butter, and prepared edible flour when transported in pool shipments in truckloads of over 20,000 pounds from Sacramento to retail stores. (11) Salt when transported between Newark and Sacramento. (12) Sugar when transported between Tracey and Sacramento or from Crockett to points within 350 miles of Crockett. (13) Trisodium phosphate when transported from Richmond to Sacramento in shipments of 40,000 pounds or more. (14) Empty containers of not less than 60 cubic feet capacity each when transported for returning loads of articles or commodities in paragraphs (11), (12), or (13) above. Both intrastate and interstate authority sought.

HEARING: Not yet assigned. Requests for procedural information including the time for filing protests concerning this application, should be addressed to the California Public Utilities Commission, State Building, Civic Center, 455 Golden Gate Avenue, San Francisco, Calif. 94102, and should not be directed to the Interstate Commerce Commission.

State Docket No. 70–158–MP/O, filed May 22, 1970. Applicant: NORTH LAND HOTELS, INC., doing business as SOURDOUGH CAB CO., Skagway, Alaska 99840. Applicant's representative: John M. Stern, Jr., Post Office Box 1672, Anchorage, Alaska 99501. Certificate of public convenience and necessity sought to operate a passenger service as follows: Transportation of *passengers and their baggage and express,* between points and places on the highway system contiguous to Skagway, Alaska, including Skagway, in Metropolitan, Limousine, Sightseeing, Tour and Charter Service (as defined by the Alaska Transportation Commission). Both intrastate and interstate authority sought.

HEARING: Not yet assigned. All interested parties and protestants to the issuance of such authority to the above party may file a statement in writing, setting forth in detail their views and specific reasons for their interest in the application, with the Alaska Transportation Commission, 750 MacKay Building, 338 Denali Street, Anchorage, Alaska 99501. Such statement shall be filed, in duplicate, not later than thirty (30) days after the last date of this publication and shall include proof of showing service of such statement on the application's attorney, John M. Stern, Jr., Post Office Box 1672, Anchorage, Alaska 99501.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[F.R. Doc. 70–10158; Filed, Aug. 4, 1970; 8:49 a.m.]

[Notice 71]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

JULY 31, 1970.

The following publications are governed by the new Special Rule 247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

MOTOR CARRIERS OF PROPERTY

No. MC 18259 (Sub-No. 2) (Republication) filed December 22, 1969, published in the FEDERAL REGISTER issue of February 5, 1970, and republished this issue. Applicant: JACKSON DISTRIBUTION CORP., 730 Spencer Street, Post Office Box 204, Salina Station, Syracuse, N.Y. 13208. Applicant's representatives: Herbert M. Canter and Norman M. Pinsky, 345 South Warren Street, Syracuse, N.Y. 13202. The modified procedure has been followed in this proceeding, and an order of the Commission, Operating Rights Board, dated June 30, 1970, served July 23, 1970, finds; that the future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses, and, in connection therewith, equipment, materials, and supplies used in the conduct of such business, from Syracuse, N.Y., to: (1) points in St. Lawrence and Franklin Counties, N.Y.; and (2) points in Steuben, Schuyler, Chemung, Tioga, Broome, Chenango, Delaware, Otsego, Schoharie, Montgomery, Fulton, Herkimer, and Schenectady Counties, N.Y., and points in Bradford and Susquehanna Counties, Pa., under a continuing contract with Sugardale Foods, Inc., Canton, Ohio, Hygrade Food Products Corp., Detroit, Mich., Geo. A. Hormel & Co., Austin, Minn., Armour and Co., Chicago, Ill., Escro Storage & Cartage, Inc., Buffalo, N.Y., Missouri Beef Packers, Inc., Rock Port, Mo., Spencer Packing Co., Spencer, Iowa, Wilson & Co., Syracuse, N.Y., John Morrell & Co., Otuma, Iowa, American Beef Packers, Oakland, Iowa, Swift & Co., Chicago, Ill., The Rath Packing Co., Waterloo, Iowa, Dubuque Packing Co., Dubuque, Iowa, South Chicago Packing Co., Chicago, Ill., The Frank Tea & Spice Co., Cincinnati, Ohio, and Chelsea Milling Co., Chelsea, Mich.; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 48635 (Sub-No. 4) (Republication) filed February 5, 1970, published in the FEDERAL REGISTER issue of March 12, 1970, and republished this issue. Applicant: CLOQUET TRANSFER COMPANY, a corporation, 107 Avenue C, Cloquet, Minn. 55720. Applicant's representative: Arnold Atwood (same address as above). The modified procedure has been followed in this proceeding, and an order of the Commission, Operating Rights Board, dated June 26, 1970, and served July 15, 1970, finds; that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of paper (other than newsprint), woodpulp, and machinery and parts used in the manufacture of paper and paper products, between Cloquet, Minn., on the one hand, and, on the other, Brainerd, Minn., that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties who have relied upon the notice of the application as previously published may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition to reopen or

for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 51146 (Sub-No. 145) (Corrected Republication) filed July 28, 1969, published in the FEDERAL REGISTER issues of August 28, 1969, and July 1, 1970, and republished in part, this issue. Applicant: SCHNEIDER TRANSPORT & STORAGE, INC., 817 McDonald Street, Green Bay, Wis. 54306. Applicant's representatives: D. F. Martin (same address as applicant), and Charles W. Singer, 33 North Dearborn Street, Chicago, Ill. NOTE: The purpose of this partial republication is to reflect a correction to the previous publication of July 1, 1970, pursuant to the corrected order of the Commission, Operating Rights Board, dated May 28, 1970, and served July 29, 1970. Part (2) of the application as published on July 1, 1970, is corrected by omitting the phrase *"on the one hand, and, on the other"* which immediately followed the territorial point of Neely's Landing, Mo. The rest of the application remains as previously published on July 1, 1970.

No. MC 76032 (Sub-No. 251) (Republication), filed January 5, 1970, published in the FEDERAL REGISTER issue of February 12, 1970, and republished in this issue. Applicant: NAVAJO FREIGHT LINES, INC., 1205 South Platte River Drive, Denver, Colo. 80223. Applicant's representative: William E. Kenworthy (same address as above). The modified procedure has been followed in this proceeding, and an order of the Commission, Operating Rights Board, dated June 30, 1970, and served July 21, 1970, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, 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 Salina and Hutchinson, Kans., from Salina over U.S. Highway 81 to McPherson, Kans., thence over Kansas Highway 61 to Hutchinson, and return over the same route, serving no intermediate points and serving Salina for purposes of joinder only; as an alternate route for operating convenience only, in connection with applicant's presently authorized regular route operations; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition for leave to reopen the proceeding or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 112750 (Sub-No. 273) (Republication) filed February 24, 1970, published in the FEDERAL REGISTER issue of March 26, 1970, and republished this issue. Applicant: AMERICAN COURIER CORPORATION, 2 Nevada Drive, Lake Success, N.Y. 11040. Applicant's representatives: John M. Delany (same address as applicant), and Russell S. Bernhard, 1625 K Street NW., Washington, D.C. 20006. The modified procedure has been held in this proceeding, and an order of the Commission, Operating Rights Board, dated June 30, 1970, and served July 21, 1970, finds that operation by applicant, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of such commercial papers, documents, written instruments, and business records (except currency and negotiable securities) as are used in the business of banks and banking institutions, between Cincinnati and Dayton, Ohio, on the one hand, and, on the other, Columbus, Ohio, restricted to the transportation of traffic having a prior or subsequent movement by air, under contract with banks and banking institutions; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder; and that an appropriate permit should be issued, subject to the condition that the holding by applicant of the permit authorized in this proceeding and of the certificates issued in No. MC-111729, and subnumbers thereunder, and the holding by applicant's commonly controlled affiliates of the certificates described above, will be consistent with the public interest and the national transportation policy, subject to the right of the Commission to impose such terms, conditions, or limitations, in the future as it may find necessary to insure that applicant's operations shall conform to the provisions of section 210 of the Interstate Commerce Act. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for leave to reopen the proceeding or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 116254 (Sub-No. 95) (Republication), filed March 25, 1969, published in the FEDERAL REGISTER issue of April 24, 1969, and republished this issue. Applicant: CHEM-HAULERS, INC., Post Office Drawer M, Sheffield, Ala. 35660. Applicant's representative: Walter Harwood, 1822 Parkway Towers, Nashville, Tenn. 37219. A recommended report and order of the Hearing Examiner, served May 28, 1970, which was made effective June 29, 1970, and served July 7, 1970, finds that the present and future public convenience and necessity require operation by applicant as a common carrier by motor vehicle, in interstate or foreign commerce over irregular routes, of chemicals, in bulk, except phosphatic feed supplements, from Tampa, Fla., to points in Alabama, Georgia, Florida, Mississippi, North Carolina, South Carolina, Tennessee, Charleston, W. Va., Taft, La., and Texas City, Tex., restricted against the transportation of phosphate and phosphatic products to points in Alabama, Florida, and Georgia. To the extent that the authority granted herein duplicates any authority now held by applicant, it will be construed as conferring but a single grant of authority; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and Commission's rules and regulations thereunder. Because it is possible that other parties who have relied upon the notice as previously published may have an interest in and would be prejudiced by the lack of proper notice of the authority granted herein, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen the proceeding, or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 127812 (Sub-No. 6) (Republication) filed January 19, 1970, published in the FEDERAL REGISTER issue of February 27, 1970, and republished this issue. Applicant: TYSON TRUCK LINES, INC., 185 Fifth Avenue SW., New Brighton, Minn. 55112. Applicant's representatives: Richard L. Tyson (same address as applicant), and Anthony C. Vance, 1111 E Street NW., Washington, D.C. 20004. The modified procedure has been followed in this proceeding, and a supplemental order of the Commission, Operating Rights Board, dated July 16, 1970, and served July 23, 1970, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of meats, meat products, meat byproducts, dairy products, and articles distributed by meat packinghouses, as described in sections A, B, and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and storage facilities at or near Albert Lea, Minn., and distribution facilities at New Brighton, Minn., all utilized by Wilson Sinclair & Co., Inc., to (a) points in Minnesota, North Dakota, and South Dakota, restricted to the transportation of traffic originating at the above-specified plantsite and storage facilities and

distribution facilities and destined to the above destinations; and (b) points in Minnesota restricted to the transportation of traffic destined to points in Minnesota; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 128320 (Republication) filed June 13, 1966, published in the FEDERAL REGISTER issue of June 30, 1970, and republished this issue. Applicant: ART QUIRING, 2301 Washington Street, Hamburg, Iowa. Applicant's representative: Donald E. Leonard, Box 2028, 605 South 14th Street, Lincoln, Nebr. 68501. An order of the Commission, Operating Rights Board, dated July 16, 1970, and served July 23, 1970, finds; that operation by applicant in interestate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of (1) foodstuffs, and (2) exempt agricultural commodities, as defined in section 203(b)(6) of the Interstate Commerce Act, in mixed loads with foodstuffs, from points in Washington, Oregon, California, and Idaho to points in Iowa, under a continuing contract with Hoxie Institutional Wholesale Co., of Des Moines, Iowa, will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties who have relied upon the notice of the application as published may have an interest in and would be prejudiced by the lack of proper notice of the authority described below, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen the proceeding or other appropriate relief, setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 133614 (Republication), filed April 4, 1969, published in the FEDERAL REGISTER April 24, 1969, and republished this issue. Applicant: PAPPAS TRUCKING, INC., Gering, Nebr. Applicant's representative: Charles J. Kimball, 605 South 14th Street, Post Office Box 2028, Lincoln, Nebr. 68501. A decision and order of the Commission, Review Board No. 1, dated July 14, 1970, upon consideration of the application as amended, and the record in this proceeding, including the report and recommended order of the Examiner, finds; that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce as a contract carrier by motor vehicle, over irregular routes, under a continuing contract or contracts with Lockwood Corp., of Gering, Nebr., of (1) (a) agricultural machinery and agricultural implements, (b) beach cleaners, (c) rock pickers, and (d) parts and attachments for the commodities described above in (a), (b), and (c) from the sites of the plant and storage facilities utilized by Lockwood Corp., at or near Gering, Nebr., to points in California, Idaho, Nevada, New Mexico, Oregon, Washington, and Wyoming; (2) the commodities specified in (1) above, between Rupert, Idaho, Othello, Wash., and Monte Vista, Colo.; and (3) parts and attachments as described in (1)(d) above, from the sites of the plant and storage facilities utilized by Lockwood Corp., at or near Gering, Nebr., to points in Arizona, Colorado, Montana, and Utah, subject to the right of the Commission, which is hereby expressly reserved, to impose such terms, conditions, or limitations in the future as it may find necessary in order to insure that applicant's operations conform to the provisions of section 210 of the Interstate Commerce Act. Because it is possible that other persons, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by a lack of proper notice of the authority described in the findings herein, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen the proceeding or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

NOTICE OF FILING OF PETITION

No. MC 125760 (Sub-No. 6), (Notice of Filing of Petition for Conversion of Operating Authority From a Permit to a Certificate of Public Convenience and Necessity), filed July 7, 1970. Petitioner: GLENN W. MEANS, 1597 Pittsburgh Road, Franklin (Venango County), Pa. 16323. Petitioner's representative: Frederick L. Kiger, 7823 Mount Carmel Road, Verona, Pa. 15147. By application filed May 28, 1969, Petitioner sought an extension of operations as a contract carrier by motor vehicle, the authority actually granted transportation over irregular routes of dairy products and fruit juices in vehicles equipped with mechanical refrigeration, from Cleveland and Youngstown, Ohio, to those points in that part of Pennsylvania on and west of a line beginning at a point on U.S. Highway 219 at the New York-Pennsylvania State line, thence southward over U.S. Highway 219 to junction Pennsylvania Highway 56, thence eastward over Pennsylvania Highway 56 to junction U.S. Highway 220, thence southward over U.S. Highway 220 to Pennsylvania-Maryland State line, under continuing contracts with Allied Supermarkets, Inc., Jefferson Wholesale Grocery Co., Inc., Sealtest Division of National Dairy Products Corp., Quaker Markets, Inc., and Quality Markets, Inc. By the instant petition, Petitioner requests that the operating authority in MC-125760 (Sub-No. 6) be converted to a common carrier certificate of public convenience and necessity reading as follows: "Irregular routes: dairy products and fruit juices in vehicles equipped with mechanical refrigeration, from Cleveland and Youngstown, Ohio, to those points in that part of Pennsylvania on and west of a line beginning at a point on U.S. Highway 219 at the New York-Pennsylvania State line, thence southward over U.S. Highway 219 to junction Pennsylvania Highway 56, thence eastward over Pennsylvania Highway 56 to junction U.S. Highway 220, thence southward over U.S. Highway 220 to the Pennsylvania State line." Any interested person desiring to participate may file an original and six copies of his written representations, views, or argument in support of, or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

APPLICATION FOR CERTIFICATE OR PERMIT WHICH IS TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE

No. MC 108473 (Sub-No. 33), filed July 23, 1970. Applicant: ST. JOHNSBURY TRUCKING COMPANY, INC., 38 Main Street, St. Johnsbury, Vt. 05819. Applicant's representatives: Francis E. Barrett, and Francis P. Barrett, 60 Adams Street, Milton, Mass. 02187. 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, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving all points in Massachusetts as off-route points in connection with applicant's authorized regular routes. NOTE: This application is a matter directly related to MC-F-10902 published in the FEDERAL REGISTER issue of July 29, 1970, wherein applicant seeks to convert the certificate of registration of Interstate Transfers, Inc., under MC 30967 (Sub-No. 4) into a Certificate of Public Convenience and Necessity. If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

TRANSFER APPLICATIONS UNDER SECTION 212(b) WHICH HAVE BEEN DESIGNATED FOR ORAL HEARING

No MC-FC-71552. Authority sought by transferee, LA VENTURE BROS.

TRANSFER, a corporation, doing business as LA VENTURE BROS., 3808 East Slauson Avenue, Maywood, Calif. 90270, to transfer to transferee a portion of the operating authority of transferor, CARTWRIGHT VAN LINES, INC., 4411 East 119th Street, Grandview, Mo. 64030. Transferee's and transferor's representatives: John S. Syrnes, Jr., Suite 219, Alhambra Professional Building, 317 West Main Street, Alhambra, Calif. 91801 and Warren N. Grossman, 825 City National Bank Building, 606 South Olive Street, Los Angeles, Calif. 90014. Portion of operating rights in certificate No. MC-88368 sought to be transferred: household goods, between points in Klamath County, Oreg., on the one hand, and, on the other, points in California.

The above-entitled transfer application under section 212(b) of the Interstate Commerce Act is to be assigned for hearing on a consolidated record with the proceeding in MC-F-10865 at a time and place to be fixed, for the purpose of determining, among other things, whether Cartwright Van Lines, Inc., transferor, and La Venture Bros. Transfer, transferee, are, or would be controlled and managed in a common interest in violation of section 5(4) of the Act, and whether transferee is fit to acquire the described portion of operating rights of transferor. Interested parties have 30 days from the date of this publication to file petitions for leave to intervene. Such petitions should state the reason or reasons for the intervention, where the petitioner wishes the hearing to be held, the number of witnesses it expects to present, and the estimated time required for presentation of its evidence. The Bureau of Enforcement has been directed to participate as a party in the consolidated proceeding for the purpose of presenting evidence and otherwise developing the record.

Applications Under Sections 5 and 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F-10903. Authority sought for purchase by COLE'S EXPRESS, 444 Perry Road, Bangor, Maine 04402, of a portion of the operating rights of HUNNEWELL TRUCKING, INC., 551 Commercial Street, Portland, Maine 04101, and for acquisition by GALEN L. COLE and GERALD A. COLE, both also of 444 Perry Road, Bangor, Maine, and Estate of A. J. COLE-MERILL TRUST CO., Bangor, Maine, of control of such rights through the purchase. Applicants' attorney: Francis E. Barrett, 60 Adams Street, Milton, Mass. 02187. Operating rights sought to be transferred: *General commodities*, with exceptions, as a *common carrier* over regular routes between Portland, Maine and Boston, Mass., serving all intermediate points and off-route points in defined areas in Maine, New Hampshire, and Massachusetts; between Portland and Woolwich, Maine, serving specified intermediate and off-route points; *general commodities*, with exceptions, as a *common carrier* over irregular routes, between points in defined areas in Maine and Massachusetts, subject to restriction; between points in defined areas in Massachusetts and New Hampshire, and from or to points in defined areas in Maine, New Hampshire, Rhode Island, and Connecticut; *specified commodities* from, to, or between specified points and/or areas in Rhode Island, Maine, New York, Connecticut, New Hampshire, and Massachusetts; household goods, between points in Maine, on the one hand, and, on the other, points in Connecticut, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Vermont, subject to restriction. Vendee is authorized to operate as a *common carrier* in Maine. Application has been filed for temporary authority under section 210a(b).

No. MC-F-10904. Authority sought for purchase by INTERSTATE DRESS CARRIERS, INC., 247 West 35th Street, New York, N.Y. 10001, of the operating rights of J. S. WALD & CO., INC., 120 Church Street, New York, N.Y. 10007, and for acquisition by JACK LIEBERMAN and ROBERT GIDDINS, both also of 247 West 35th Street, New York, N.Y. 10001, of control of such rights through the purchase. Applicants' attorney: Herbert Burstein, Esq., 30 Church Street, New York, N.Y. 10007. Operating rights sought to be transferred: *General commodities*, excepting, among others, dangerous explosives, household goods, and commodities in bulk, as a *common carrier* over irregular routes, between points and places in the New York, N.Y., commercial zone, as defined by the Commission in 1 M.C.C. 665, between points and places in the New York, N.Y., commercial zone, as defined by the Commission in 1 M.C.C. 665, on the one hand, and, on the other, points and places in New Jersey and New York within 40 miles of the said New York, N.Y., commercial zone. Vendee is authorized to operate as a *common carrier* in New York, Pennsylvania, New Jersey, Maryland, Tennessee, West Virginia, and Virginia. Application has been filed for temporary authority under section 210a(b). NOTE: No. MC-50307 Sub-54 is a matter directly related.

No. MC-F-10905. Authority sought for purchase by DOMINION FREIGHTWAYS CO. LIMITED, 77 North Queen Street, Toronto, Ontario, Canada, of the operating rights of CONSOLIDATED TRUCK LINES LIMITED, 775 The Queensway, Toronto, Ontario, Canada. Applicants' attorney: Harold G. Hernly, 711 14th Street NW., Washington, D.C. 20005. Operating rights sought to be transferred: *General commodities*, excepting, among others, classes A and B explosives, household goods and commodities in bulk, as a *common carrier* over regular routes, between Buffalo, N.Y., and the United States-Canada boundary line at Niagara Falls and Buffalo, N.Y., serving all intermediate points and the off-route points of Lackawanna and Blasdell, N.Y., between Detroit, Mich., and the ports of entry located on the United States-Canada boundary line at Detroit, Mich., serving all intermediate points, between Niagara Falls, N.Y., and the port of entry on the United States-Canada boundary line located on the new Lewiston-Queenston Bridge at Lewiston, N.Y., serving no intermediate points; *general commodities*, except household goods as defined by the Commission, between Port Huron, Mich., and the ports of entry located on the United States-Canada boundary line at Port Huron, Mich., serving all intermediate points, and those off-route points located within 8 miles of the junction of Military and Water Streets, Port Huron, Mich.; *Cork Rods*, in bulk, from Buffalo, N.Y., to the port of entry on the United States-Canada boundary line at Buffalo, serving no intermediate points; *general commodities*, excepting, among others, classes A and B explosives, livestock, household goods and commodities in bulk, over irregular routes, between the ports of entry on the United States-Canada boundary line at Buffalo, N.Y., on the one hand, and, on the other, Buffalo, N.Y., between points in New York within 5 miles of Buffalo, N.Y., excluding Buffalo, on the one hand, and, on the other, the ports of entry on the United States-Canada boundary line at Buffalo and Niagara Falls, N.Y., between the port of entry on the United States-Canada boundary line at Niagara Falls, on the one hand, and, on the other, Buffalo and Niagara Falls, N.Y., with restriction; *muriatic acid*, in bulk, in tank vehicles, from the boundary of the United States and Canada, at or near Port Huron, Mich., to points in the Lower Peninsula of Michigan, with restriction; *muriatic (hydrochloric) acid*, in bulk, in tank vehicles, from the port of entry on the United States-Canada boundary line, at or near Port Huron, Mich., to points in Ohio. Vendee is authorized to operate as a *common carrier* in Michigan and New York. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-10907. Authority sought for purchase by C & H TRANSPORTATION CO., INC., Post Office Box 5976, Dallas, Tex. 75222, of the operating rights of W. J. SHANNON TRUCKING CO., 129 Summer Street, Worcester, Mass. 01601, and for acquisition by C. A. RUNDELL, JR., 3100 Southland Center, Dallas, Tex., of control of such rights through the purchase. Applicants' attorneys: Thomas E. James, The 904 Lavaca Building, Austin, Tex. 78701, and Frank J. Weiner, 6 Beacon Street, Boston, Mass. 02108. Operating rights sought to be transferred: *Builders' finish, store fixtures, building contractors' equipment and supplies*, and *machinery*, as a *common carrier* over irregular routes, between Worcester, Mass., on the one hand, and,

on the other, points in Rhode Island and Connecticut, *machinery*, between Worcester, Mass., and Boston, Mass., between East Port Chester, Conn., and points in Connecticut and New York within 5 miles of East Port Chester, on the one hand, and, on the other, points in Connecticut and New York within 50 miles of East Port Chester, between Worcester, Mass., on the one hand, and, on the other, points in Vermont, New Hampshire, Rhode Island, Connecticut, New York, and New Jersey; *Structural steel and iron*, between points in Massachusetts and Connecticut; *boats*, between East Port Chester, Conn., and points in Connecticut and New York within 15 miles of East Port Chester, on the one hand, and, on the other, points in Connecticut and New York; *general commodities*, excepting among others, classes A and B explosives, household goods and commodities in bulk, between East Port Chester, Conn., and points in Connecticut within 15 miles of East Port Chester, on the one hand, and, on the other, Port Chester, N.Y., and points in New York within 15 miles of East Port Chester; *structural steel*, from Worcester, Mass., to points in New Hampshire, Vermont, Rhode Island, and Connecticut; *textile products, sheet metal, and plumbing supplies*, from Worcester, Mass., to points in Rhode Island and Connecticut; *heavy machinery*, between Worcester, Mass., and points within 25 miles of Worcester, on the one hand, and, on the other, points in Connecticut, New Hampshire, and Rhode Island. Vendee is authorized to operate as a *common carrier* in all of the 50 States (except Hawaii). Application has been filed for temporary authority under section 210a(b).

No. MC 10908. Authority sought for purchase by ROBERTSON TANK LINES, INC., 5700 Polk Avenue, Post Office Box 1505, Houston, Tex. 77001, of the operating rights of ALLEN TRUCKING COMPANY, INC., Route 2, Box 51, Keithville, La. 71047, and for acquisition by ROBERTSON DISTRIBUTION SYSTEM, INC., and in turn EDWARD O. GAYLORD, Post Office Box 1505, Houston, Tex., of control of such rights through the purchase. Applicants' attorney: Pat H. Robertson, Suite 401, First National Life Building, Austin, Tex. 78701. Operating rights sought to be transferred: *Wood residuals*, as a *common carrier*, over irregular routes, between points in Arkansas, Louisiana, Oklahoma, and Texas. Vendee is authorized to operate as a *common carrier* in all of the 50 States (except Alaska and Hawaii). Application has not been filed for temporary authority under section 210a(b).

No. MC–F–10909. Authority sought for control by CHEMICAL EXPRESS COMPANY, 1200 Simons Building, Dallas, Tex. 75201, of QUALITY TRANSPORT, INC., Post Office Box 26174, New Orleans, La. 70126, and for acquisition by A. POLLARD SIMONS, CURTIS W. MEWBOURNE and HERMAN J. RUPPEL, all of 1200 Simons Building, Dallas, Tex., of control of QUALITY TRANSPORT, INC., through the acquisition by CHEMICAL EXPRESS COMPANY. Applicants' attorney: Wm. E. Livingstone, III, Suite 4555, First National Bank Building, Dallas, Tex. 75202. Operating rights sought to be controlled: *Cement*, as a *common carrier*, over irregular routes, from New Orleans, La., to points in Florida and Alabama, with restriction; *cement* in bags, from New Orleans, La., to points in Mississippi; *cement kiln dust*, in bulk, in tank vehicles, from points in Louisiana, to points in Mississippi. CHEMICAL EXPRESS COMPANY, holds no authority from this Commission. However, it is affiliated with the following carriers: (A) CEMENT TRANSPORT, INC., MC–114107, Post Office Box 176, Valley Station, Kosmosdale, Ky. 40149, is authorized to operate as a *contract carrier*, in Kentucky, Indiana, Ohio, Illinois, and Tennessee. (B) SMITH TRANSIT, INC., MC–113514, 1200 Simons Building, Dallas, Tex. 75201, is authorized to operate as a *common carrier*, in Texas, Alabama, Arkansas, Kansas, Louisiana, Mississippi, Missouri, New Mexico, Oklahoma, Utah, Arizona, Illinois, Indiana, Ohio, North Carolina, South Carolina, Wisconsin, Iowa, Nebraska, Oregon, Washington, California, Tennessee, Colorado, Michigan, Wisconsin, Florida, Kentucky, Minnesota, Nevada, North Dakota, South Dakota, and Wyoming. (C) CEMENT EXPRESS, INC., MC–124236, 1200 Simons Building, Dallas, Tex. 75201, is authorized to operate as a *common carrier*, in Texas, New Mexico, Oklahoma, Arkansas, Louisiana, Colorado, Kansas, Alabama, Mississippi, and Missouri; and is controlled by (D) ELLSWORTH BROS. TRUCK LINE, INC., MC–109435, 116 North Allied Road, Stroud, Okla. 74079, is authorized to operate as a *common carrier*, in Oklahoma, Kansas, Arkansas, Missouri, Texas, Louisiana, Alabama, Florida, Georgia, Kentucky, Mississippi, South Carolina, Tennessee, and New Mexico. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–10910. Authority sought for purchase by EMERALD TRANSFER AND RIGGING CO., Second National Bank Building, Akron, Ohio 44308, of the operating rights and property of PAVIA TRUCKING COMPANY, 6721 Wade Park Avenue, Cleveland, Ohio 44103 and for acquisition by JACK A. RODGERS, 2155 Ridgewood Road, Akron, Ohio 44312, JOHN J. BRUTVAN, 2366 South Short Hills Drive, Akron, Ohio 44313, FREDERICK H. GILLEN, Second National Bank Building, Akron, Ohio 44308 and PAUL MARSH, Post Office Box 6055, Akron, Ohio 44312, of control of such rights and property through the purchase. Applicants' attorney and representative: A. David Millner, 744 Broad Street, Newark, N.J. 07102 and Alex H. Kubetin, 970 East 64th Street, Cleveland, Ohio 44103. Operating rights sought to be transferred: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, as a *common carrier* over irregular routes, between points in Cuyahoga County, Ohio. Vendee holds no authority from this Commission. However, its controlling stockholders controls MILLER TRANSFER AND RIGGING CO., 3911 State Route, Edinburg, Ohio 58227, which is authorized to operate as a *common carrier* in Pennsylvania, Ohio, New York, West Virginia, Illinois, Indiana, New Jersey, Alabama, Minnesota, Oklahoma, California, Massachusetts, and Connecticut; and as a *contract carrier* in all points in the United States (except Alaska and Hawaii). Application has been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[F.R. Doc. 70–10159; Filed, Aug. 4, 1970; 8:49 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—AUGUST

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 August.

3 CFR

Page

EXECUTIVE ORDER:
11248 (amended by EO 11550) 12315
11550 12315

5 CFR

213 12341, 12387
550 12387

7 CFR

26 12321
225 12391
910 12322
923 12392
931 12392
947 12455
993 12323
1421 12393
1443 12455

PROPOSED RULES:
362 12478
711 12404
919 12478
932 12345
925 12478

9 CFR

76 12388, 12460

10 CFR

PROPOSED RULES:
30 12412
40 12412
70 12412
170 12412

12 CFR

329 12460
526 12388
605 12461

14 CFR

39 12325, 12326
65 12326
71 12327, 12328
73 12328
97 12328
245 12388

PROPOSED RULES:
71 12348, 12349
121 12479

15 CFR

Page

377 12389

16 CFR

501 12461

17 CFR

240 12390

18 CFR

154 12329

19 CFR

4 12391

20 CFR

405 12330
602 12393

PROPOSED RULES:
405 12346

21 CFR

19 12461
121 12332, 12390
135d 12332
135e 12332
135g 12332, 12333
320 12461

PROPOSED RULES:
3 12411, 12479
135 12479
144 12479

26 CFR

Ch. II 12462

PROPOSED RULES:
1 12342, 12343, 12400, 12467–12477
31 12343
301 12343

29 CFR

1607 12333

30 CFR

300 12336
302 12337

32 CFR

Page

882 12395
1499 12338

33 CFR

92 12395
117 12396

39 CFR

113 12462

41 CFR

4–12 12338
8–2 12340
8–6 12340
9–51 12396

45 CFR

901 12516
903 12517
904 12521
905 12522
907 12523
908 12524

PROPOSED RULES:
250 12346

46 CFR

531 12399

47 CFR

21 12462
87 12397
89 12397
91 12397
93 12398

PROPOSED RULES:
73 12481–12483

49 CFR

71 12317
235 12463
236 12463

PROPOSED RULES:
1048 12483

50 CFR

14 12391
32 12465, 12466

FEDERAL REGISTER

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Wednesday, August 5, 1970 • Washington, D.C.

PART II

Department of Health, Education, and Welfare

Social and Rehabilitation Service

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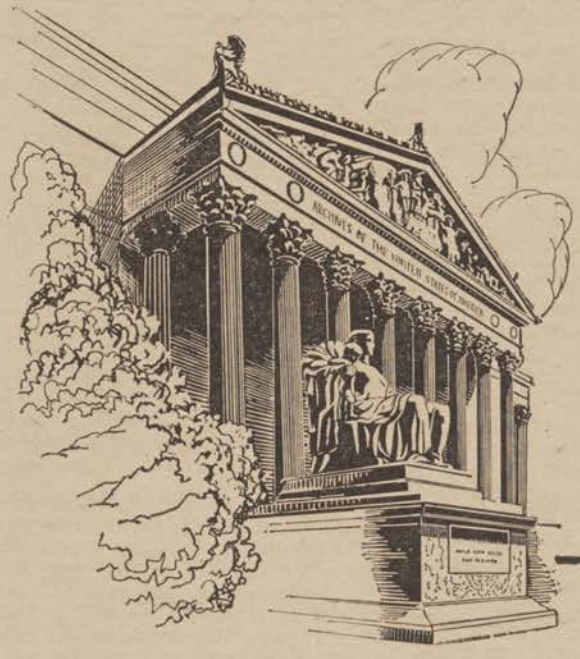
AGING PROGRAMS AND ACTIVITIES



Title 45—PUBLIC WELFARE

Chapter IX—Administration on Aging, Social and Rehabilitation Service, Department of Health, Education, and Welfare

AGING PROGRAMS AND ACTIVITIES

Notice of proposed rulemaking for Aging Programs and Activities was published in the FEDERAL REGISTER of March 5, 1970 (35 F.R. 4180). The views of interested persons were requested, received and considered, and, in the light thereof, certain changes in the proposed regulations were made.

Accordingly, Chapter IX of title 45 of the Code of Federal Regulations is amended to include new regulations to implement the Older Americans Act Amendments of 1969 (Public Law 91-69). Some changes are also made in existing regulations to reflect current program activities and emphasis of the Administration on Aging in the Social and Rehabilitation Service.

Part 903, as revised includes provisions relating to broader representation on the State agency advisory committee, development of priorities for statewide training needs, and comment on community project proposals by local offices of aging.

In Parts 904 and 905, in place of the provision for review of research and development and training project applications by technical advisory committees, there is substituted a provision for review by specialists and consultants when indicated.

Federal financial assistance extended under this chapter is subject to the regulations in 45 CFR Part 80, issued by the Secretary of Health, Education, and Welfare, and approved by the President, to effectuate the provisions of section 601 of the Civil Rights Act of 1964 (42 U.S.C. 2000d).

Part

PART 901—GENERAL

Sec.

AUTHORITY: The provisions of this Part 901 issued under sec. 101 et seq., 79 Stat. 218-226, 81 Stat. 106-108, 82 Stat. 1101, 83 Stat. 108-115; 42 U.S.C. 3001 et seq.

§ 901.1 Purposes of the Act.

In the Declaration of Objectives for Older Americans (section 101 of the Older Americans Act of 1965) the Congress found and declared that, in keeping with the traditional American concept of the inherent dignity of the individual in our democratic society, the older people of our Nation are entitled to, and it is the joint and several duty and responsibility of the governments of the United States and of the several States and their political subdivisions to assist our older people to secure equal opportunity to the full and free enjoyment of the following objectives;

(a) An adequate income in retirement in accordance with the American standard of living.

(b) The best possible physical and mental health which science can make available and without regard to economic status.

(c) Suitable housing, independently selected, designed, and located with reference to special needs and available at costs which older citizens can afford.

(d) Full restorative services for those who require institutional care.

(e) Opportunity for employment with no discriminatory personnel practices because of age.

(f) Retirement in health, honor, dignity—after years of contribution to the economy.

(g) Pursuit of meaningful activity within the widest range of civic, cultural, and recreational opportunities.

(h) Efficient community services which provide social assistance in a coordinated manner and which are readily available when needed.

(i) Immediate benefit from proven research knowledge which can sustain and improve health and happiness.

(j) Freedom, independence, and the free exercise of individual initiative in planning and managing their own lives.

§ 901.2 Definitions.

(a) "Act" means the Older Americans Act of 1965, as amended (42 U.S.C. 3001 et seq.).

(b) "Administration on Aging" means the Administration on Aging established under the provisions of the Act in the Department of Health, Education, and Welfare.

(c) "Commissioner" means, unless the context otherwise requires, the Commissioner of the Administration on Aging.

(d) "Department" means the Department of Health, Education, and Welfare.

(e) The term "fiscal year" refers to the Federal fiscal year.

(f) The term "nonprofit" as applied to any agency, institution or organization means an agency, institution, or organization which is, or is owned and operated by, one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(g) "Population" as applied to any State means the population of that State as determined by the most recent official estimates of the Bureau of the Census available to the Secretary preceding the fiscal year for which Federal grant funds are appropriated.

(h) "Project period" means the period of time which the Secretary finds is reasonably required to initiate and conduct a project submitted under the provisions of title IV or V of the Act.

(i) "Secretary" means the Secretary of Health, Education, and Welfare.

(j) "Single organizational unit" means the unit established within the State agency with delegated authority for, and whose principal responsibility shall be, planning, coordination, and evaluation of programs and activities related to the purposes of the Act, and administration of the State plan.

(k) "State" means the several States, the District of Columbia, the Virgin Islands, Puerto Rico, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(l) "State agency" means the single State agency established or designated as the sole agency for administering or supervising the administration of the State plan.

(m) "State plan" means the document or documents submitted by the States to comply with the requirements for participation under title III of the Act.

§ 901.3 Publications, films, copyrights, educational materials, and inventions.

(a) *Publications.* Grantees under this chapter may publish results of any projects without prior review by the Administration on Aging: *Provided,* That such publications carry a footnote acknowledging assistance received under the Act, and that the claimed findings and conclusions do not necessarily reflect the views of the Administration on Aging, and provided that copies of the publication are furnished to the Administration on Aging.

(b) *Films.* Grantees cannot use grant funds to produce films intended for viewing by the general public without prior approval by the Administration on Aging.

(c) *Copyrights.* Where the grant-supported activity results in a book or other copyrightable material, the author is free to copyright, but the Administration on Aging reserves a royalty free nonexclusive, and irrevocable license to reproduce, publish, translate, or otherwise use, and to authorize others to use, all copyrightable or copyrighted materials resulting from the grant-supported activity.

(d) *Educational materials.* All educational materials arising out of the grant supported activity shall be available to the Secretary to reproduce, publish, translate, or otherwise use, and to authorize others to use.

(e) *Inventions.* Any invention arising out of the grant-supported activity shall be promptly and fully reported to the Administration on Aging. Ownership and the manner of disposition shall be determined by the Secretary in accordance with Department patent regulations and policy.

§ 901.4 Retention of records.

Grantees are required to maintain accounting records for a period of 3 years after the end of the budget period (or fiscal year in the case of grants under title III of the Act) if audit by or on behalf of the Department has occurred by that time. If audit has not occurred, the records must be retained until audit, or until 5 years following the end of the budget period (or fiscal year in the case

of title III), whichever is earlier. However, in all cases, records shall be retained until resolution of any audit questions.

PART 903—GRANTS FOR STATE AND COMMUNITY PROGRAMS FOR THE AGING

THE STATE PLAN—GENERAL

THE STATE PLAN—ADMINISTRATION

THE STATE PLAN—PLANNING, COORDINATION, AND EVALUATION

THE STATE PLAN-COMMUNITY PROGRAMS ON AGING

ALLOTMENTS AND FEDERAL FINANCIAL PARTICIPATION

AUTHORITY: The provisions of this Part 903 issued under secs. 101 et seq., 79 Stat. 218–226, 81 Stat. 106–108, 82 Stat. 1101, 83 Stat. 108–115; 42 U.S.C. 3001 et seq.

THE STATE PLAN—GENERAL

§ 903.1 Purpose.

A basic condition to the certification of Federal funds under title III of the Act is a State plan found to meet Federal requirements. The State plan is a commitment that the title III program will be carried out in keeping with the provisions of the Act and all regulations, policies, and procedures established by the Secretary.

§ 903.2 Plan submission and approval.

The State plan and all amendments thereto shall be submitted to the Secretary by a duly authorized officer of the State agency through the Regional Commissioner of the Social and Rehabilitation Service. The Regional Commissioner reviews the plan or amendments and approves them within his delegated authority, or forwards the plan or amendments together with his comments and recommendations to the Administrator, Social and Rehabilitation Service. Any State plan or amendment meeting the requirements of the Act and of this part shall be approved.

§ 903.3 Plan amendments.

The State agency's administration of the program shall be in conformity with the State plan as approved by the Secretary. Whenever there is any material change in the content or administration of the State plan as approved, or when there has been a change in pertinent State law or in the organization, policies, or operations of the State agency affecting the plan, the State plan shall be appropriately amended. In order to reflect the Older Americans Act Amendments of 1969, each State must submit for approval an amended State plan not later than 90 days following the effective date of the regulations in this chapter.

§ 903.4 Plan review.

The approved State plan and all amendments shall be subject to review as the Secretary may prescribe.

§ 903.5 Plan disapproval.

No State plan, or any modification thereof, submitted under title III of the Act, shall be finally disapproved without first affording the State reasonable notice and opportunity for a hearing.

§ 903.6 Withholding of funds.

Whenever the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of a State plan approved under title III of the Act, finds that (a) the State plan no longer complies with the provisions of the Act, or (b) in the administration of the plan there is a failure to comply substantially with any such provision, the Secretary shall notify such State agency that no further payments will be made to the State under title III of the Act (or in his discretion, that further payments to the State will be limited to programs under or portions of the State plan not affected by such failure) until he is satisfied that there will no longer be any failure to comply. Until he is so satisfied no further payments shall be made to such State under title III of the Act (or payments shall be limited to programs under or portions of the State plan not affected by such failure).

§ 903.7 Appeal procedures.

A State which is dissatisfied with a final action of the Secretary under § 903.5 or § 903.6 may appeal to the U.S. Court of Appeals for the circuit in which the State is located, by filing a petition with such court within 60 days after such final action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary, or any officer designated by him for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code. Upon the filing of such petitions, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Secretary may modify or set aside his order. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of proceedings under this section shall not, unless so specifically ordered by the court, operate as a stay of the Secretary's action.

§ 903.8 Review of plan by Governor.

The State plan shall provide that the Office of the State Governor will be given an opportunity to review the State plan, plan amendments and related material, in accordance with the requirements of § 204.1 of this title.

THE STATE PLAN—ADMINISTRATION

§ 903.10 State agency.

The State plan shall identify the single State agency that has been established or designated as the sole agency for administering or supervising the administration of the State plan. This agency shall be primarily responsible for coordination of State programs and activities related to the purposes of the Act and

shall also have responsibility for statewide planning and evaluation of such programs and activities.

§ 903.11 Authority of the State agency.

The State plan shall contain a certification by the State Attorney General that the State agency has the authority to submit the State plan; is the sole State agency responsible for administering or supervising the administration of the State plan; and is primarily responsible for coordination of State programs and activities related to the purposes of the Act; and that nothing in the State plan is inconsistent with State law

§ 903.12 Organization of the State agency.

(a) The State plan shall provide that there will be a single organizational unit within the State agency with delegated authority for, and whose principal responsibility shall be, planning, coordination and evaluation of programs and activities related to the purposes of the Act, and administration of the State plan. If the State agency is an independent single purpose agency, such agency, in its entirety, may constitute the single unit. In all other cases, the single organizational unit must be placed at a level within the State agency to assure effective performance of the unit's responsibilities. The organizational placement of this unit shall be equivalent to the placement of other major functional components of the agency. In establishment of the organizational structure in the central office, and elsewhere in the State, due consideration shall be given to the geography of the State, the number and concentration of older persons, and other special conditions in the State.

(b) The State plan shall provide for the development of programs and activities for carrying out the purposes of the Act, for the conduct of all functions for which the State is responsible under the Act, and for methods of administration which will assure the coordination and integration of activities, adequate controls over operations, channels for the development and interpretation of policies and standards, recordkeeping and reporting procedures, and effective supervision of staff. If certain specified portions of the plan are to be administered by an agency other than the State agency, the State plan shall provide for such methods of administration as are necessary to assure the application of State standards and the effective implementation of the State plan.

§ 903.13 Functions and staffing of the single organizational unit.

The State plan shall contain a staffing plan that sets forth the projected staffing of the single organizational unit for a 3-year period. The staffing plan must set forth the number, type, and timetable for the hiring of staff set forth in such plan, and the State plan must provide that:

(a) The single organizational unit will be headed by an individual qualified by education and experience to assume leadership of the program, assigned full-time solely to this activity; and

(b) There will be provision for adequate numbers of qualified staff assigned full-time to the single organizational unit to assure the effective conduct of the responsibilities of the unit in the following functional areas:

(1) Research, special studies, selected data gathering, and dissemination of information;

(2) Review and evaluation of programs and services;

(3) Coordination and cooperation with all other units and agencies conducting programs for the elderly;

(4) Training activities for community leadership and service project staff;

(5) Consultative and technical assistance to other State and local, public and private agencies in the State;

(6) Public information; and

(7) Citizen participation, volunteer, and advisory committee activities; and

(8) All necessary administrative and management activities.

§ 903.14 Participation of older Americans; advisory assistance to the State agency.

(a) The State plan shall provide that adequate mechanisms will be developed that will assure maximum effective participation of actual or potential consumers of services under this program in the implementation of the State plan at the State and local levels. These mechanisms shall include:

(1) Provision for periodic public hearings on concerns of the elderly in the State; and

(2) Provision for the participation of actual or potential consumers of services under this program whenever possible in the implementation of the State plan at the local level in the areas of services, program administration, and decision-making.

(b) The State plan shall provide for the establishment of an advisory committee to the State agency on the implementation of the State plan. At least one-half of the membership of such committee shall consist of actual or potential consumers of services under this program, with the remainder being broadly representative of major public and private agencies and organizations in the State concerned with the interests of older persons, local government, and other persons who are experienced in or have demonstrated particular interest in the special needs of the elderly.

§ 903.15 Standards of personnel administration.

(a) The State plan shall provide that methods of personnel administration will be established and maintained in the State agency administering or supervising the State plan and in local agencies administering the State plan in conformity with the Standards for a Merit System of Personnel Administration, Part 70 of this title. Under this requirement, laws, rules, regulations, and policy statements effectuating such methods of personnel administration are a part of the State plan. Statements of acceptance of these standards by all official local agencies included in the State plan must be obtained and methods must be established by the State to assure compliance by local jurisdictions. These statements and citations of applicable State laws, rules, regulations, and policies which provide assurance of conformity to the standards in Part 70 of this title must be submitted to the Department for determination as to adequacy. Copies of the materials cited and of similar local materials maintained by a State official responsible for compliance by local jurisdictions must be furnished to the Department on request.

(b) The Secretary shall exercise no authority with respect to the selection, tenure of office or compensation of any individual employed in accordance with such methods.

§ 903.16 Training and manpower development.

The State plan shall provide for an effective program of staff development to be undertaken by the State agency which shall include:

(a) The development of a Training and Manpower Development Plan which sets forth needs, priorities, and recommendations for training of persons serving, or needed to serve, the elderly in the State, which plan shall be updated regularly; and

(b) An assurance that all title III monies expended for training be consistent with the Training and Manpower Development Plan.

§ 903.17 Fiscal administration.

The State plan shall provide for such accounting systems and procedures as are adequate to control and support all fiscal activities under title III. The State plan shall provide for the maintenance by the State agency, and all community grantees, of such accounts and supporting documents as will serve to permit an accurate and expeditious determination to be made at any time of the status of the Federal grants, including the disposition of all monies received and the nature and amount of all charges claimed to lie against the allotments to the States.

§ 903.18 Methods of administration.

The State plan shall provide for such methods of administration as are necessary for the proper and efficient operation of the plan.

THE STATE PLAN—PLANNING, COORDINATION, AND EVALUATION

§ 903.20 Planning, coordination, and evaluation.

(a) The State plan shall provide that effective statewide planning will be carried out on an on-going basis on behalf of all older persons in the State, with emphasis being placed on assuring the conduct of: (1) Special studies, including issue analyses and data gathering; (2) review and evaluation of all major programs and services for the elderly in the State; and (3) establishment of linkages with all other State planning efforts and service programs that affect the elderly of the State.

(b) The State plan shall provide that the State agency will coordinate and, where possible, stimulate the development of planning efforts on behalf of all older persons at the local levels throughout the State.

(c) The State plan shall provide that mechanisms will be developed by the State agency that will assure the effective coordination of other major aging activities and programs in the State.

(d) The State plan shall provide that effective working relationships will be developed and maintained between the State agency and other public and voluntary agencies that provide services, or whose programs are concerned with the older population of the State.

(e) The State plan shall provide that the State agency will seek to develop a cooperative relationship with other major service delivery agencies to encourage the on-going evaluation of the effectiveness of programs serving the elderly of the State.

(f) The State plan shall provide for the development of a comprehensive study of the status and needs of the older population of the State in the program areas set forth in the Declaration of Objectives of Title I of the Act. Such study shall be completed no later than July 1, 1971, and shall be up-dated periodically thereafter.

§ 903.21 Consultative, technical, and information services.

The State plan shall provide for the furnishing of consultative, technical, and information services to public and nonprofit private agencies and organizations engaged in activities relating to the special problems or welfare of older persons.

§ 903.22 Cooperation with other agencies and organizations.

The State plan shall provide for consultation with and utilization, pursuant to agreement with the head thereof, of the services and facilities of appropriate State or local public or nonprofit private agencies and organizations in the administration of the plan and in the development of programs and activities for carrying out the purposes of the Act.

§ 903.23 Report on aging in the State.

The State plan shall provide that the State agency will be responsible for coordinating the development of, and participate in, the preparation of a report on the achievements of State programs affecting the elderly in the State. Such report shall be initially completed no later than July 1, 1971. Such report shall be up-dated periodically, but at least every 2 years thereafter.

§ 903.24 Reports.

The State plan shall provide that the State agency will make such reports to the Secretary in such form and containing such information as may reasonably be necessary to enable him to perform his functions under title III of the Act, and will keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports.

§ 903.25 Cost allocation.

The State plan shall provide for establishing and maintaining methods and procedures for properly charging the costs of activities under the plan to the program in accordance with Federal requirements (Bureau of the Budget Circular A–87 and Department and Social and Rehabilitation Service regulations and instructions). Such methods and procedures and revisions in them must be submitted for approval on a timely basis.

THE STATE PLAN—COMMUNITY PROGRAMS ON AGING

§ 903.30 Community projects.

Federal funds are made available under sections 301 and 302 of the Act for:

(a) Community planning and coordination of programs for carrying out the purposes of the Act;

(b) Demonstration of programs or activities which are particularly valuable in carrying out such purposes;

(c) Training of special personnel needed to carry out such programs and activities; and

(d) Establishment of new or expansion of existing programs to carry out such purposes, including establishment of new or expansion of existing centers which will provide recreational and other leisure time activities, and informational, health, welfare, counseling, and referral services for older persons and will assist such persons in providing volunteer community or civic services; except that no costs of construction, other than for minor alterations and repairs, shall be included in such establishment or expansion.

§ 903.31 Principles and priorities for community projects.

(a) The State plan shall set forth the principles that have been established by the State agency for determining the priority for approval of community projects under § 903.30.

(b) The State plan shall provide that the process for establishment of priorities for the approval of community projects will be an integral part of the statewide planning, coordination, and evaluation activities of the State agency and that only those priorities will be established which have been clearly identified through such activities. These priorities shall be ranked in the order of greatest need in the State as determined by the State agency.

(c) The State plan shall provide for the approval of only those community projects that hold significant promise toward meeting one or more of the top priorities established by the State agency.

(d) The State plan shall provide that the State agency shall review the established priorities at least annually, and revise the priorities where appropriate.

§ 903.32 Eligibility of applicants.

The State plan shall provide that only community project proposals submitted by local public agencies, by private nonprofit agencies or organizations, or by public or other nonprofit institutions of higher education, shall be eligible for approval.

§ 903.33 Approval of community projects.

(a) The State plan shall provide that each community project proposal under title III, to be considered for approval, must: (1) Be submitted for comment to the local office of aging (if any) having jurisdiction over the geographic area from which the proposal is submitted; and (2) have clearly specified objectives that are in keeping with the priorities established by the State agency and the purposes of the Act.

(b) The State plan shall provide that a community project proposal considered under this section can be initially approved for a maximum of 1 year. Once approved, and before being considered for Federal support for any subsequent year, the State agency must conduct a detailed on-site evaluation of the project to determine the extent to which the objectives for which the project was approved are being met.

(c) The State plan shall provide that only those community projects which are making substantial progress toward achieving the objectives for which they were approved will be considered for refunding for any subsequent project year under this section.

(d) The State plan shall provide that only the State agency shall exercise the final approval authority for community projects approved under this section.

§ 903.34 Opportunity for hearing.

The State plan shall provide that any community project applicant, whose application for approval is denied, will be afforded an opportunity for a hearing before the State agency.

§ 903.35 Cost sharing in community projects.

The State plan shall provide for financial participation by the State or communities with respect to activities and projects under the plan in order to assure continuation of desirable activities and projects. Such financial participation shall include adequate contributions by State or community public agencies, and may also include contributions of other non-Federal resources. Such financial participation may be in the form of cash or in-kind resources. If in-kind resources are used, the value for such resources shall be determined in keeping with Federal policies as established by the Administration on Aging, and limited to the extent that actual costs are incurred to the community project.

ALLOTMENTS AND FEDERAL FINANCIAL PARTICIPATION

§ 903.40 Allotments to the State for planning, coordination, evaluation, and administration.

Federal funds appropriated pursuant to section 304 of the Act for any fiscal year shall be allotted among the States in the following manner:

(a) From the sum appropriated for a fiscal year under section 304 of the Act, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, and American Samoa shall be allotted an amount equal to one-half of 1 per centum of such sum or $25,000, whichever is greater, and each other State shall be allotted an amount equal to 1 per centum of such sum.

(b) From the remainder of the sum so appropriated for a fiscal year each State shall be allotted an additional amount which bears the same ratio to such remainder as the population aged 65 or over in such State bears to the population aged 65 or over in all of the States, as determined by the Secretary on the basis of the most recent information available to him, including any relevant data furnished to him by the Department of Commerce.

(c) A State's allotment for a fiscal year under section 304 of the Act shall be equal to the sum of the amounts allotted under paragraphs (a) and (b) of this section; except that if such sum for any State, other than the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, and American Samoa, is less than $75,000 it shall be increased to that amount, the total of the increases thereby required being derived by proportionately reducing such sum for each of the remaining States (except the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, and American Samoa), but with such adjustments as may be necessary to prevent such sum for any of such remaining States from being reduced to less than $75,000.

(d) In any case in which a State does not have authority under State law to expend the full amount of its allotment under this section in the fiscal year ending June 30, 1970, the amount of such allotment which the Secretary determines the State did not have such authority to expend during a part of that fiscal year shall remain available to such State until June 30, 1971, subject to reallotment after June 30, 1970, in accordance with the provisions of § 903.45, except as provided by the following sentence. In any case in which a State does not have authority under State law to expend the full amount of its allotment under this section, including any amount available pursuant to the preceding sentence, in the fiscal year ending June 30, 1971, the amount of such allotment which the Secretary determines the State did not have such authority to expend during a part of that fiscal year shall remain available to such State until June 30, 1972, subject to reallotment after June 30, 1971, in accordance with the provisions of § 903.45.

§ 903.41 Federal financial participation in State planning, coordination, evaluation, and administration.

Federal funds made available under section 304 of the Act for any fiscal year shall be available to each State, which has a State plan approved under title III of the Act, and has complied with the requirements under § 903.42, to pay not in excess of 75 per centum of the costs of planning, coordination, and evaluation activities related to the purposes of the Act and of administering the State plan. Funds appropriated pursuant to the preceding sentence for the fiscal years ending June 30, 1970, and June 30, 1971, but not expended because the State did not have authority under State law to expend such funds as determined by the Secretary pursuant to section 304(b)(4) of the Act and § 903.40(d), shall remain available as therein provided.

§ 903.42 Maintenance of effort.

Reasonable assurance shall be provided by State agencies, as the Commissioner may prescribe, that there will be expended for the purposes for which payments are made under section 304 of the Act, for the year for which such payments are made and from funds from State sources, not less than the amount expended for such purposes from such funds for the fiscal year ending June 30, 1969.

§ 903.43 Reallotment of planning, coordination, evaluation, and administration funds.

The amount of any allotment to a State under section 304 of the Act for any fiscal year which the Secretary determines will not be required for meeting the costs in such State referred to in section 304(a) of the Act and for the purposes set forth in section 304(b)(4) of the Act, shall be reallotted from time to time, on such dates as the Secretary may fix, to other States which the Secretary determines (a) have need in meeting the costs referred to in section 304(a) of the Act for sums in excess of those previously allotted to them under section 304(b) of the Act and (b) will be able to use such excess amounts for meeting such costs during any period for which the allotment is available. Such reallotments shall be made on the basis of such need and ability, after taking into consideration the population aged 65 or over. Any amount so reallotted to a State shall be deemed part of its allotment under section 304(b) of the Act.

§ 903.44 Allotments to the States for community projects.

The funds appropriated pursuant to section 301 of the Act for any fiscal year for community projects shall be allotted among the States under section 302 of the Act in the following manner:

(a) From the sum appropriated for a fiscal year under section 301, (1) the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands shall be allotted an amount equal to one-half of 1 per centum of such sum, and (2) each other State shall be allotted an amount equal to 1 per centum of such sum.

(b) From the remainder of the sum so appropriated for a fiscal year each State shall be allotted an additional amount which bears the same ratio to such remainder as the population aged 65 or over in such State bears to the population aged 65 or over in all the States as determined by the Secretary on the basis of the most recent information available to him, including any relevant data furnished to him by the Department of Commerce.

(c) A State's allotment for a fiscal year under section 302 of the Act shall be equal to the sum of the amount allotted under paragraphs (a) and (b) of this section.

§ 903.45 Federal financial participation in community projects.

(a) The allotment of any State under section 302 of the Act for any fiscal year shall be available for grants to pay part of the costs of projects in such State described in § 903.30 and approved by such State, in accordance with its approved State plan, prior to the end of such year.

(b) To the extent permitted by the State's allotment under section 302 of the Act, payments with respect to any project shall equal such percentage of the cost of the project as the State agency may provide, but not in excess of 75 per centum of the cost of such project for the first year of the duration of such project, 60 per centum of the cost for the second year of such project, and 50 per centum of such cost for the third and subsequent year of such project.

§ 903.46 Reallotment of community project funds.

The amount of any allotment to a State under section 302 of the Act for any fiscal year which the Secretary determines will not be required for community projects in the State under section 301 of the Act shall be reallotted from time to time, on such dates as the Secretary may fix, to other States which the Secretary determines (a) have need in carrying out their State plans as approved for sums in excess of those previously allotted to them under section 302(a) of the Act, and (b) will be able to use such excess amounts for projects approved by the State during the period for which the original allotment was available. Such reallotments shall be made on the basis of the State plans so approved, after taking into consideration the population aged 65 or over. Any amount so reallotted to a State shall be deemed part of its allotment under section 302 of the Act.

§ 903.47 Expenditure of grant funds.

The types of expenditures of grant funds which are recognized for Federal financial participation under title III of the Act, and the conditions under which such expenditures are recognized, are set forth in manuals and other issuances of the Administration on Aging. Grant funds as used in this section mean Federal funds and all other resources used to earn Federal matching funds for the purpose of implementing the State plan under the Act.

§ 903.48 Payments.

Payments under title III of the Act may be made (after necessary adjustment on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments, as the Secretary may determine.

§ 903.49 Audit.

All fiscal transactions by the State agency, any other agency (if any) administering part of the plan, and any project grantee under title III of the Act, are subject to audit by the Department to determine whether expenditures have been made in accordance with the Act and this part.

PART 904—RESEARCH AND DEVELOPMENT PROJECTS

PURPOSE

AUTHORITY: The provisions of this Part 904 issued under sec. 101 et seq., 79 Stat. 218–226, 81 Stat. 106–108, 82 Stat. 1101, 83 Stat. 108–115; 42 U.S.C. 3001 et seq.

PURPOSE

§ 904.1 Purpose.

The Secretary is authorized to make grants or enter into contracts to meet in whole or in part the costs of conducting an identified activity or program to carry out the purposes of the Act through:

(a) The study of current patterns and conditions of living of older persons and identification of factors which are beneficial or detrimental to the wholesome and meaningful living of such persons;

(b) The development or demonstration of new approaches, techniques, and methods (including multipurpose centers) which hold promise of substantial contribution toward wholesome and meaningful living of such persons;

(c) The development or demonstration of approaches, methods, and techniques for achieving or improving coordination of community services for older persons;

(d) The evaluation of these approaches, techniques, and methods as well as others which may assist older persons to enjoy wholesome and meaningful living and to continue to contribute to the strength and welfare of our Nation;

(e) The collection and dissemination, through publications and other appropriate means, of information concerning research findings, demonstration results, and other materials developed in connection with activities assisted under this part; or

(f) The conducting of conferences and other meetings for the purposes of facilitating exchange of information and stimulating new approaches with respect to activities related to the purposes of this part.

GRANTS

§ 904.2 Eligibility.

The Secretary, after consulting with the designated State agency, is authorized to make grants to any public or nonprofit private agency, organization, or institution (except Federal agencies and institutions) for paying in whole or part the costs of projects designed to carry out the purposes of this part.

§ 904.3 Application.

Any applicant eligible for a grant award under § 904.2 may file application therefor with the Secretary on such forms and in such detail as the Secretary may prescribe. Such application shall set forth adequately the nature, duration, purpose, and plan of the project, the qualifications of the principal staff members to be responsible for the project, the total facilities and resources that will be available, a justification of the amount of the requested grant, and such other pertinent information as the Secretary may require. The application shall be executed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the terms and conditions of any award, including the regulations of this part.

§ 904.4 Project review.

The Administration on Aging processes all applications which meet legal requirements for a grant. Applications which are consistent with Administration on Aging support policies are sent to State agencies on aging and to SRS regional offices for review and comment. Comments may also be requested from appropriate specialists and consultants inside and outside of the Government. Applicants may be requested to submit additional information while a project proposal is being considered. Upon completion of its review, the Administration on Aging makes recommendations to the Secretary. The Secretary then determines the action to be taken with respect to each application and notifies the applicant accordingly.

§ 904.5 Grant awards.

Within the limits of funds available for such purpose, the Secretary will award a grant to those applicants whose approved projects will in his judgment best promote the purposes of the Act and this part. All grant awards shall be in writing, shall set forth the amount of funds granted, and shall constitute for such amounts the encumbrance of Federal funds available for such purpose on the date of the award. The initial award shall also specify the project period for which support is contemplated if the activity is satisfactorily carried out and Federal funds are available. For continuation support, grantees must make separate application in accordance with the provisions of this part.

§ 904.6 Payments.

(a) To the extent he deems it appropriate, the Secretary shall require the recipient of any grant under this part to contribute money, facilities, or services for carrying out the project.

(b) The Secretary shall from time to time make payments to a grantee of all or a portion of any grant award, either in advance or by way of reimbursement for expenses to be incurred or incurred in the project period, to the extent he determines such payments necessary to promote prompt initiation and advancement of the approved project. All such payments shall be recorded by the grantee in accounting records separate from all other fund accounts, including funds derived from other grant awards. Amounts paid shall be available for expenditure by the grantee in accordance with the regulations of this part throughout the project period subject to such limitations as the Secretary may prescribe.

§ 904.7 Termination.

A grant may be terminated in whole or in part at any time at the discretion of the Secretary. Noncancellable obligations properly incurred prior to the receipt of the notice of termination will be honored. The grantee shall be promptly notified of such termination in writing and given the reasons therefor.

§ 904.8 Reports.

The grantee shall make such reports to the Secretary, including reports of findings and results of evaluation, in such form and containing such information as may reasonably be necessary to enable him to perform his functions under this part and shall keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports.

§ 904.9 Project expenditures.

Grants under this part will be available for the following types of expenditures for approved projects:

(a) Salaries, cost of travel, and related expenses of project personnel;

(b) Necessary supplies, equipment, and related expenses;

(c) Purchase or provision of services to individuals served by the project;

(d) Costs of publication and distribution of studies, findings, and materials developed in connection with activities under this part;

(e) Costs of administration and other indirect costs of the project, subject to such limitations as are set forth in the Bureau of the Budget Circulars A–21 and A–87, and as the Secretary may establish; and

(f) Such other items as are included in the approved application.

Expenditures shall be in connection with the conduct of the project as approved.

§ 904.10 Interest; other income.

(a) Pursuant to section 203 of the Intergovernmental Cooperation Act of 1968 (Public Law 90–577), a State, as defined in section 102 of that Act, will not be held accountable for interest earned on grant funds, pending their disbursement for program purposes. A State, as defined in the Intergovernmental Cooperation Act, section 102,

means any one of the several States, the District of Columbia, Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State, but does not include the governments of the political subdivisions of the State. All other grantees must return to the Social and Rehabilitation Service all interest earned on grant funds.

(b) All grantees must return to the Social and Rehabilitation Service a part of any other project income proportionate to the grant contribution to the support of the project.

§ 904.11 Audits.

All fiscal transactions by a grantee relating to grants under this part are subject to audit by the Department to determine whether expenditures have been made in accordance with the Act and this part.

CONTRACTS

§ 904.12 Contracts.

(a) *Eligibility.* The Secretary is authorized to make contracts to carry out the purposes of this part with any agency, organization or institution (except Federal agencies and institutions), or with any individual, after consulting with the designated State agency.

(b) *Provisions.* Any contract under this part shall be entered into in accordance with and shall conform to all applicable laws, regulations and Department policy.

(c) *Payments.* Payments may be made in advance or by way of reimbursement, and in such installments and on such conditions, as the Secretary may determine. To the extent he deems it appropriate, the Secretary shall require the contractor to contribute money, facilities, or services for carrying out the project for which the contract was made.

PART 905—TRAINING PROJECTS

PURPOSE

Sec.
905.1 Purpose.

GRANTS

905.2 Eligibility.
905.3 Application.
905.4 Project review.
905.5 Grant awards.
905.6 Payments.
905.7 Termination.
905.8 Reports.
905.9 Project Expenditures.
905.10 Interest.
905.11 Audits.

CONTRACTS

905.12 Contracts.

AUTHORITY: The provisions of this Part 905 issued under sec. 101 et seq., 79 Stat. 218–226, 81 Stat. 106–108, 82 Stat. 1101, 83 Stat. 108–115; 42 U.S.C. sec. 3001 et seq.

PURPOSE

§ 905.1 Purpose.

The Secretary is authorized to make grants or enter into contracts to meet in whole or in part the costs of—

(a) The specialized training of persons employed or preparing for employment in carrying out programs related to the purposes of the Act and the development of curriculums for such training;

(b) The conduct of studies of the need for trained personnel to carry out such programs;

(c) The preparation and dissemination of materials, including audiovisual materials and printed materials, for use in recruitment and training of such personnel;

(d) The conduct of conferences and other meetings for the purpose of facilitating exchange of information and stimulating new approaches with respect to activities related to the purposes of this part; or

(e) The publication and distribution of information concerning studies, findings, and other materials developed in connection with activities under this part.

GRANTS

§ 905.2 Eligibility.

The Secretary, after consulting with the designated State agency, is authorized to make grants to any public or nonprofit private agency, organization, or institution (except Federal agencies and institutions) for paying in whole or part the costs of projects designed to carry out the purposes set forth in § 905.1.

§ 905.3 Application.

Any applicant eligible for a grant award under § 905.2 may file application therefor with the Secretary on such forms and in such detail as the Secretary may prescribe. Such application shall set forth adequately the nature, duration, purpose and plan of the project, the qualifications of the principal staff members to be responsible for the project, the total facilities and resources that will be available, a justification of the amount of the requested grant, and such other pertinent information as the Secretary may require. The application shall be executed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the terms and conditions of any award, including the regulations of this part.

§ 905.4 Project review.

The Administration on Aging processes all applications which meet legal requirements for a grant. Applications which are consistent with Administration on Aging support policies are sent to State agencies on aging and to SRS regional offices for review and comment. Comments may also be requested from appropriate specialists and consultants inside and outside of the Government. Applicants may be requested to submit additional information while a project proposal is being considered. Upon completion of its review, the Administration on Aging makes recommendations to the Secretary. The Secretary then determines the action to be taken with respect to each application and notifies the applicant accordingly.

§ 905.5 Grant awards.

Within the limits of funds available for such purpose, the Secretary will award a grant to those applicants whose approved projects will in his judgment best promote the purposes of the Act and this part. All grant awards shall be in writing, shall set forth the amount of funds granted, and shall constitute for such amounts the encumbrance of Federal funds available for such purpose on the date of the award. The initial award shall also specify the project period for which support is contemplated if the activity is satisfactorily carried out and Federal funds are available. For continuation support, grantees must make separate application in accordance with the provisions of this part.

§ 905.6 Payments.

(a) To the extent he deems it appropriate, the Secretary shall require the recipients of any grant under this part to contribute money, facilities, or services for carrying out the project.

(b) The Secretary shall from time to time make payments to a grantee of all or a portion of any grant award, either in advance or by way of reimbursement for expenses to be incurred or incurred in the project period, to the extent he determines such payments necessary to promote prompt initiation and advancement of the approved project. All such payments shall be recorded by the grantee in accounting records separate from all other fund accounts, including funds derived from other grant awards. Amounts paid shall be available for expenditure by the grantee in accordance with the regulations of this part throughout the project period subject to such limitations as the Secretary may prescribe.

§ 905.7 Termination.

A grant may be terminated in whole or in part at any time at the discretion of the Secretary. Noncancellable obligations properly incurred prior to the receipt of the notice of termination will be honored. The grantee shall be promptly notified of such termination in writing and given the reasons therefor.

§ 905.8 Reports.

The grantee shall make such reports to the Secretary in such form and containing such information as may reasonably be necessary to enable him to perform his functions under this part and shall keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports.

§ 905.9 Project expenditures.

Grants under this part will be available for the following types of expenditures for approved projects:

(a) Salaries, cost of travel;

(b) Stipends or other expenses of trainees;

(c) Necessary supplies, equipment, and related expenses;

(d) Costs of publication and distribution of studies, findings, and materials developed in connection with activities under this part;

(e) Costs of administration and other indirect costs of the project, subject to such limitations as are set forth in the

Bureau of the Budget Circulars A–21 and A–87, and as the Secretary may establish; and

(f) Such other items as are included in the approved application.

Expenditures shall be in connection with the conduct of the project as approved.

§ 905.10 Interest; other income.

(a) Pursuant to section 203 of the Intergovernmental Cooperation Act of 1968 (Public Law 90–577), a State, as defined in section 102 of that Act, will not be held accountable for interest earned on grant funds, pending their disbursement for program purposes. A State, as defined in the Intergovernmental Cooperation Act, section 102, means any one of the several States, the District of Columbia, Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State, but does not include the governments of the political subdivisions of the State. All other grantees must return to the Social and Rehabilitation Service all interest earned on grant funds.

(b) All grantees must return to the Social and Rehabilitation Service a part of any other project income proportionate to the grant contribution to the support of the project.

§ 905.11 Audits.

All fiscal transactions by a grantee relating to grants under this part are subject to audit by the Department to determine whether expenditures have been made in accordance with the Act and this part.

CONTRACTS

§ 905.12 Contracts.

(a) *Eligibility.* The Secretary is authorized to make contracts to carry out the purposes of this part with any agency, organization or institution (except Federal agencies and institutions), after consulting with the designated State agency.

(b) *Provisions.* Any contract under this part shall be entered into in accordance with and shall conform to all applicable laws, regulations and department policy.

(c) *Payments.* Payments may be made in advance or by way of reimbursement, and in such installments and on such conditions, as the Secretary may determine. To the extent he deems it appropriate, the Secretary shall require the contractor to contribute money, facilities, or services for carrying out the project for which the contract was made.

PART 907—FOSTER GRANDPARENT PROGRAM

PURPOSE

Sec.
907.1 Purpose.

GRANTS AND CONTRACTS

907.2 Eligibility.
907.3 Applications.
907.4 Awards.
907.5 Payments.
907.6 Expenditures.
907.7 Audits.
907.8 Termination.

PROGRAM OPERATION

907.15 Reports and records.
907.16 Advisory Council.
907.17 Approved settings.
907.18 Eligibility of foster grandparents.
907.19 Stipends for foster grandparents.
907.20 Physical examinations.
907.21 Safety standards.
907.22 Accident insurance.
907.23 Appeal procedure.

AUTHORITY: The provisions of this Part 907 issued under sec. 101 et seq., 79 Stat. 218–226, 81 Stat. 106–108, 82 Stat. 1101, 83 Stat. 108–115; 42 U.S.C. 3001 et seq.

PURPOSE

§ 907.1 Purpose.

The purpose of the Foster Grandparent Program is to provide part-time opportunities with pay for low-income persons, age 60 or over, to render supportive person-to-person services in health, education, welfare and related settings to children having special needs. Foster grandparents may serve children receiving care in hospitals, homes for dependent and neglected children or other establishments providing care for children with special needs.

GRANTS AND CONTRACTS

§ 907.2 Eligibility.

The Secretary is authorized to make grants to or contracts with (non-Federal) public or nonprofit private agencies and organizations to pay not more than 90 percent of the cost of development and operation of foster grandparent projects designed to carry out the purpose of this part. Projects may be supported on a continuing basis if the activity is satisfactorily carried out and Federal funds are available.

§ 907.3 Application.

(a) Any eligible agency or organization under § 907.2 may file application for the award of a grant or contract with the Administration on Aging on such forms and in such detail as the Secretary may prescribe.

(b) The application shall set forth a budget in appropriate categories such as staff salaries and fringe benefits; foster grandparent stipends and fringe benefits; staff travel; foster grandparent transportation, meals, physical examinations, uniforms or smocks and laundering thereof; supplies; orientation and in-service instruction; equipment; space; and other expenses. Up to 90 percent of the approved budget will be paid from Federal funds. Ten percent or more of the approved budget will be paid from non-Federal sources. Consultative services, other than for orientation and in-service instruction, and space, other than space for project staff and space reserved exclusively for foster grandparent use, cannot be approved in the budget.

(c) The application shall adequately identify the location, objectives and plan of the project and include a budget explanation as well as a budget, copies of agreements or contracts involving the project, staff position descriptions, qualifications of principal staff members, and such other pertinent information as the Secretary may require.

(d) The application shall be executed by a person authorized to act for the applicant to assume on behalf of the applicant the obligations imposed by the terms and conditions of any award, including the regulations in this part.

(e) Projects to serve an area limited to one community:

(1) A reasonable opportunity shall be given to a community action agency (established under title II, Economic Opportunity Act of 1964) to apply for and receive a grant or contract to administer or supervise the administration of a project to be undertaken entirely in the community served by this agency. It is the preferred applicant for such award.

(2) When the applicant is other than a community action agency, the application must:

(i) Include a document from the community action agency, if such agency exists in the community, giving assurance that it has had, but not availed itself of, the opportunity to apply for and receive such award.

(ii) Contain satisfactory assurance that the project has been developed and will to the extent appropriate be conducted in consultation with, or with the participation of, the community action agency, if such agency exists in the community.

(3) Not less than 45 days shall be allowed for the State agency to review and make recommendations on a copy of the application.

(f) Projects to serve an area larger than one community.

(1) Preference is given to the State agency as applicant for a grant or contract to administer or supervise the administration of a multiple community or Statewide project by allowing a reasonable opportunity for the State agency to apply for and receive such award.

(2) When the applicant is other than the State agency, that is, a public or private nonprofit agency, the application must:

(i) Include a document from the State agency giving assurance that it has had, but not availed itself of, the opportunity to apply for and receive such award;

(ii) Contain satisfactory assurance that the project has been developed and will, to the extent appropriate, be conducted in consultation with, or with the participation of, the State agency.

(3) Not less than 45 days shall be allowed for the State agency to review and make recommendations on a copy of the application.

§ 907.4 Awards.

(a) Within the limits of funds available for the Foster Grandparent Program, the Secretary will award a grant or contract to those applicants whose proposals will in his judgment best serve the purposes of the Act and this part. All awards shall be in writing, shall set forth the amount of funds granted, and shall constitute for such amounts the encumbrance of Federal funds available for such purpose on the date of the award.

(b) Recipients of a grant or contract under this part shall contribute at least 10 percent of the approved budget.

§ 907.5 Payments.

Payments under this part pursuant to a grant or contract may be made (after necessary adjustment, in the case of grants, due to previously made overpayments or underpayments) in advance or by way of reimbursement, in such installments and on such conditions as the Secretary may determine.

§ 907.6 Expenditures.

(a) All expenditures are to be made in accordance with this part and with the budget approved for the project.

(b) Payments received and expenditures made shall be fully recorded by or for the grantee or contractor in accounting records separate from all other fund accounts, including funds derived from other grant or contract awards.

§ 907.7 Audits.

All fiscal transactions relating to an award under this part by a grantee, contractor, or any other agency administering a project are subject to audit by the Department to determine whether or not expenditures have been made in accordance with the Act, the conditions of the award and this part.

§ 907.8 Termination.

A grant or contract may be terminated in whole or in part at any time at the discretion of the Secretary. Noncancellable obligations properly incurred prior to the receipt of the notice of termination will be honored. The holder of an award shall be promptly notified of such termination in writing and given the reasons therefor.

PROGRAM OPERATION

§ 907.15 Reports and records.

The grantee, contractor, or any other agency administering a project shall make such reports to the Secretary in such form and containing such information as may be necessary to enable him to perform his functions under this part and shall keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports.

§ 907.16 Advisory Council.

A Foster Grandparent Program Advisory Council shall be established for each project. Membership of the Advisory Council shall consist of representatives from major private and public agencies and organizations concerned with the best interests of older persons. At least one third of the Advisory Council membership shall be or represent other, low-income persons.

§ 907.17 Approved settings.

Foster grandparents may be placed in settings where children are served only if the agency, institution or other setting has been licensed or otherwise certified by the State to render such a service.

§ 907.18 Eligibility of foster grandparents.

(a) A foster grandparent must be 60 years of age or over.

(b) To receive a stipend as a foster grandparent, the applicant's annual income, other than that received as a foster grandparent, may not exceed the applicable poverty guideline.

(c) The income level causing separation from service as a foster grandparent shall be determined by the local Foster Grandparent Program Advisory Council, but the income may not exceed the applicable poverty guideline by more than 20 percent. Requests for exceptions above 20 percent must be documented for consideration by the Secretary.

§ 907.19 Stipends for foster grandparents.

The stipend for foster grandparents allowed in project budgets will be determined by the Secretary with reference to the Federal minimum wage and the funding capabilities of the Foster Grandparent Program. Local projects may offer a higher stipend, but may not include the excess payments in their project budget.

§ 907.20 Physical examinations.

Each new foster grandparent shall have an adequate physical examination to assure that he is physically able to serve without detriment to himself or to the children served.

§ 907.21 Safety standards.

Adequate standards of safety to protect older persons serving as foster grandparents shall be established and administered by each Foster Grandparent project.

§ 907.22 Accident insurance.

All foster grandparents shall be covered by Workmen's Compensation or similar accident insurance.

§ 907.23 Appeal procedure.

Any foster grandparent who feels aggrieved by an action or a decision by grantee or contractor or project staff may appeal for reconsideration by the Foster Grandparent Program Advisory Council and, finally, by the governing board of the grantee or contractor.

PART 908—ADVISORY COMMITTEES

Sec.

AUTHORITY: The provisions of this Part 908 issued under secs. 101–705, 81 Stat. 106–108, 82 Stat. 1101, 83 Stat. 108–115; 42 U.S.C. 3001 et seq.

§ 908.1 Advisory Committee on Older Americans.

(a) *Appointment and composition.* The Advisory Committee on Older Americans shall consist of the Commissioner, who shall be Chairman, and 15 persons not otherwise regular full-time employees of the United States, appointed by the Secretary without regard to the civil service laws. Members shall be selected from among persons who are experienced in or have demonstrated particular interest in special problems of aging.

(b) *Term of office.* Each member of the Advisory Committee shall hold office for a term of 3 years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

(c) *Duties.* The Advisory Committee on Older Americans will advise the Secretary on matters bearing on his responsibilities under the Act and related activities of his Department.

§ 908.2 Technical advisory committees.

The Secretary is authorized to appoint, without regard to the civil service laws, such technical advisory committees as he deems appropriate for advising him in carrying out his functions under this Act.

§ 908.3 Per diem payments.

Members of the Advisory Committee on Older Americans, or of any technical advisory committee appointed under § 908.2 who are not regular full-time employees of the United States, shall, while attending meetings or conferences of such committee or otherwise engaged on business of such committee, be entitled to receive compensation at a rate fixed by the Secretary but not exceeding $100 per diem, including travel time, and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 United States Code for persons in the Government service employed intermittently.

Effective date. The regulations in this chapter shall be effective on the date of their publication in the FEDERAL REGISTER.

Dated: July 10, 1970.

JOHN D. TWINAME,
Administrator, Social and Rehabilitation Service.

Approved: July 24, 1970.

ELLIOT L. RICHARDSON,
Secretary.

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