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Title 5—ADMINISTRATIVE PERSONNEL

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PART 213—EXCEPTED SERVICE

Department of the Air Force

Section 213.3309 is amended to show that the position of Private Secretary to the Special Assistant for Economic Utilization and Analysis is no longer in Schedule C. Effective on publication in the FEDERAL REGISTER, subparagraph (4) of paragraph (a) of § 213.3309 is revoked.

(5 U.S.C. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION.
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 70–12641; Filed, Sept. 22, 1970; 8:49 a.m.]

PART 213—EXCEPTED SERVICE

Department of Commerce

Section 213.3314 is amended to show that one position of Confidential Assistant to the Special Assistant to the Secretary for Policy Development is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, subparagraph (22) is added to paragraph (a) of § 213.3314 as set out below.

§ 213.3314 **Department of Commerce.**

(a) *Office of the Secretary.* * * *

(22) One Confidential Assistant to the Special Assistant to the Secretary for Policy Development.

(5 U.S.C. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 70–12642; Filed, Sept. 22, 1970; 8:49 a.m.]

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare

Section 213.3116 is amended to show that until September 30, 1972, not to exceed 18 positions established in connection with the Suicidology training program in the National Center for Mental Health Services, Training and Research are excepted under Schedule A when filled by persons who are selected specifically for that program and whose compensation is fixed under 5 U.S.C. 5351 and 5352. Employment under this authority may not exceed 1 year. Effective on publication in the FEDERAL REGISTER, subparagraph (11) is added to paragraph (a) of § 213.3116 as set out below.

§ 213.3116 **Department of Health, Education, and Welfare.**

(a) *National Center for Mental Health Services, Training, and Research.* * * *

(11) Until September 30, 1972, not to exceed 18 positions established in connection with the Suicidology training program when filled by persons who are selected specifically for that program and whose compensation is fixed under 5 U.S.C. 5351 and 5352. Employment under this authority may not exceed 1 year.

(5 U.S.C. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 70–12643; Filed, Sept. 22, 1970; 8:49 a.m.]

PART 213—EXCEPTED SERVICE

Temporary Boards and Commissions

Section 213.3199 is amended to show that, until April 1, 1972, positions at GS–15 and below on the staff of the President's Commission on School Finance are excepted under Schedule A. Effective on publication in the FEDERAL REGISTER, paragraph (i) is added to § 213.3199 as set out below.

§ 213.3199 **Temporary boards and commissions.**

* * * * *

(i) *President's Commission on School Finance.* (1) Until April 1, 1972, positions at GS–15 and below on the staff of the Commission.

(5 U.S.C. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 70–12725; Filed, Sept. 22, 1970; 8:53 a.m.]

PART 630—ABSENCE AND LEAVE

Miscellaneous Amendments

Part 630 is amended by (1) amending § 630.603(c)(3) to add language to make clear that in calculating "service abroad" time spent in the Armed Forces which interrupts service abroad is counted for eligibility but not leave-earning purposes, and (2) amending § 630.604(a) by adding a new subparagraph (6) to make clear that when an employee's service abroad is interrupted by duty in the Armed Forces he gains no leave-earning benefit for the time in the Armed Forces.

§ 630.603 **Computation of service abroad.**

For the purpose of this subpart, service abroad:

* * * * *

(c) Includes (1) absence in a nonpay status up to a maximum of 2 workweeks within each 12 months of service abroad, (2) authorized leave with pay, (3) time spent in the Armed Forces of the United States which interrupts service abroad (but only for eligibility, not leave-earning, purposes), and (4) a period of detail.

In computing service abroad, full credit is given for the day of arrival and the day of departure.

§ 630.604 **Earning rates.**

(a) For each 12 months of service abroad, an employee earns home leave at the following rate:

* * * * *

(6) An employee included under (1) through (5) above whose civilian service abroad is interrupted by a tour of duty in the Armed Forces of the United States, for the duration of such tour—0 (zero) days.

(Sec. 1(2) of E.O. 11228; 3 CFR, 1964–1965, Comp., p. 318)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 70–12640; Filed, Sept. 22, 1970; 8:49 a.m.]

Title 12—BANKS AND BANKING

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER G—NONMEMBER INSTITUTIONS

[No. 70–240]

PART 591—LIMITATIONS ON RATE OF RETURN

Deletion of Regulations for Nonmember Institutions

SEPTEMBER 17, 1970.

Resolved, That the Federal Home Loan Bank Board finds that the authority conferred upon it in subsection (a) of section 5B of the Federal Home Loan Bank Act (12 U.S.C. 1425b) to prescribe rules governing the payment and advertisement of interest or dividends on savings accounts by certain building and

loan, savings and loan, and homestead associations, and cooperative banks which are not members of a Federal Home Loan Bank no longer applies to nonmember institutions in the Commonwealth of Massachusetts. Accordingly, the Board hereby amends Chapter V of Title 12 of the Code of Federal Regulations by deleting Subchapter G, the Regulations for Nonmember Institutions (Part 591), effective upon publication in the FEDERAL REGISTER.

(Sec. 5B, 47 Stat. 727, as added by sec. 4, 80 Stat. 824, as amended by sec. 2(b), Public Law 91-151, 83 Stat. 371; sec. 17, 47 Stat. 736, as amended; 12 U.S.C. 1425b, 1437. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943-48 Comp., p. 1071)

Resolved further That, since the statutory authority conferred upon the Board under subsection (a) of section 5B of the Federal Home Loan Bank Act (12 U.S.C. 1425b), has terminated with regard to nonmember institutions in the Commonwealth of Massachusetts, the Board hereby finds that notice and public procedure on the amendment are unnecessary under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); and for the same reason, the Board finds that the publication for the 30-day period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date thereof is likewise unnecessary; and the Board hereby provides that the amendment shall become effective as hereinbefore set forth.

By the Federal Home Loan Bank Board.

[SEAL] JACK CARTER,
Secretary.

[F.R. Doc. 70-12691; Filed, Sept. 22, 1970; 8:53 a.m.]

Title 7—AGRICULTURE

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

[Avocado Reg. 12]

PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

Quality and Size Regulation; Correction

In the FEDERAL REGISTER issue of June 13, 1970, paragraph (a)(2) of Avocado Regulation 12 (35 F.R. 9244) contained an error, relating to Booth 8 variety avocados. in Column 6 of Table I thereof which is hereby corrected to read as follows:

§ 915.312 Avocado Regulation 12.

(a) *Order.* * * *
(2) * * *

TABLE I

Variety	Date	Minimum weight or diameter	Date	Minimum weight or diameter	Date	Minimum weight or diameter	Date
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
* * *	* * *	* * *	* * *	* * *	* * *	* * *	
Booth 8	9-14-70	16 oz. 3 9/16 in.	9-28-70	15 oz. 3 7/16 in.	10-12-70	13 oz. 3 5/16 in.	
* * *	* * *	* * *	* * *	* * *	* * *	* * *	

Dated: September 17, 1970.

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

[F.R. Doc. 70-12653; Filed, Sept. 22, 1970; 8:50 a.m.]

PART 966—TOMATOES GROWN IN FLORIDA

Expenses and Rate of Assessment

Notice of rule making regarding the proposed expenses and rate of assessment to be effective under Marketing Agreement No. 125 and Order No. 966, both as amended (7 CFR Part 966), regulating the handling of tomatoes grown in designated counties in the State of Florida, was published in the FEDERAL REGISTER of August 25, 1970 (35 F.R. 13520). This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.). The notice afforded interested persons an opportunity to submit written data, views, or arguments pertaining thereto not later than 15 days following its 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 Florida Tomato Committee, established pursuant to the said marketing agreement and order, it is hereby found and determined that:

§ 966.207 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period ending July 31, 1971, by the Florida Tomato Committee for its maintenance and functioning, and for such purposes as the Secretary determines to be appropriate will amount to $103,250.

(b) The rate of assessment to be paid by each handler in accordance with the marketing agreement and this part shall be three-fourths of a cent ($0.0075) per 40-pound container of tomatoes, or equivalent quantity, handled by him as the first handler thereof during said fiscal period.

(c) Unexpended income in excess of expenses for the fiscal period ending July 31, 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 its publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) the relevant provisions of this part require that rates of assessment fixed for a particular fiscal period shall be applicable to all assessable tomatoes from the beginning of such period, and (2) the current fiscal period began on August 1, 1970, and the rate of assessment herein fixed will automatically apply to all assessable tomatoes beginning with such date.

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

Dated: September 18, 1970.

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

[F.R. Doc. 70-12683; Filed, Sept. 22, 1970; 8:52 a.m.]

PART 987—DOMESTIC DATES PRODUCED OR PACKED IN A DESIGNATED AREA OF CALIFORNIA

Specified Export Outlets

The Date Administrative Committee has unanimously recommended that § 987.156 of the administrative rules and regulations be amended to permit the disposition of field-run dates of the Deglet Noor variety for export to France and Belgium and prescribe minimum grade requirements for such export outlets. Section 987.156 is effective pursuant to § 987.56 of the marketing agreement, as amended, and Order No. 987, as amended (7 CFR Part 987), regulating the handling of dates produced or packed in a designated area of California. The amended marketing agreement and order (hereinafter referred to collectively as the "order"), are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The date marketing agreement and order program is designed to provide consumers with good quality dates properly processed and packaged to assure a wholesome product. Dates failing to meet certain minimum requirements are termed substandard. The order recognizes, however, that a country such as

one having the proper facilities may desire to do its own processing and packaging and thus request unprocessed or field-run dates. Section 987.56 provides for the exportation of substandard dates to meet the needs of particular countries.

France and Belgium have date processing and packaging plants and desire to have at least part of the processing and the final packaging done in their plants. Under § 987.156 (35 F.R. 6700) of the administrative rules and regulations effective pursuant to the order, exportation to France and Belgium of high quality field-run Deglet Noor dates was authorized during the latter part of the crop year ending July 31, 1970. A substantial quantity of field-run dates were exported under such authorization.

French and Belgian importers and processors again desire to import high quality field-run Deglet Noor dates, and they like the smaller sizes. Enabling such importers and processors to obtain the field-run dates they desire (and of the sizes they like), will permit them to process and package the dates in their respective countries and supply their customers with the dates similar to those to which they are accustomed. Such action will tend to increase exports of California dates and thereby increase returns to producers.

In view of the foregoing, the Date Administrative Committee unanimously recommended that the exportation of field-run dates of the Deglet Noor variety to France and Belgium should again be permitted on the same basis as under the prior authorization but without regard to any size requirement as such. However, the size requirement in § 987.145(f)(4)(i) will continue to be applicable for the purpose of determining the weight of the exported field-run dates that will be eligible to satisfy a handler's restricted obligation.

Based on the unanimous recommendation of the Date Administrative Committee and other information, it is hereby found that to authorize, pursuant to § 987.56, disposition as hereinafter set forth of field-run dates of the Deglet Noor variety by export to France and Belgium will tend to effectuate the declared policy of the act.

Therefore, § 987.156 of Subpart—Administrative Rules and Regulations (7 CFR 987.100–987.174; 35 F.R. 6700, 5396), is amended by revising paragraph (b) to read as follows:

§ 987.156 Disposition of substandard dates.

* * * * *

(b) *Specified export outlets.* (1) *Field-run dates.* Lots of field-run dates of the Deglet Noor variety as described in paragraph (f)(4) of § 987.145 that are inspected in accordance therewith and certified as meeting the requirements prescribed therein as modified for purpose of this subparagraph (1) by the provisions of this subparagraph may be exported to France and Belgium. The modification is that at least 85 percent, in lieu of 70 percent, by weight, of the dates in the representative sample are sound dates except that the requirement in said paragraph (f)(4) with respect to size, after normal processing, shall not be considered in determining the percentage of sound dates in the sample.

(2) *Credit against restricted obligation.* Any handler who disposes of any lot of Deglet Noor dates in accordance with this paragraph (b), and such lot also meets the requirements (including those of size) for eligible field-run dates as described in § 987.145(f)(4), shall be credited, as provided in § 987.45(f), with satisfaction of all or any part of his withholding obligation to the extent of the eligible weight of the lot exported. Such eligible weight shall be computed by multiplying the net weight of the dates in the lot by the percentage of the sound dates in the lot as determined by the inspector in accordance with § 987.145(f)(4).

It is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in public rule making procedure, and that good cause exists for making this action effective as hereinafter specified and for not postponing the effective time until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) This action unanimously recommended by the Date Administrative Committee must become effective as hereinafter specified to permit handlers to take advantage of a demand for field-run dates in France and Belgium and make arrangements to export such dates to these countries; (2) this action relieves restrictions; (3) handlers are aware of the interest in California dates by France and Belgium and are prepared to begin exportation under this regulation immediately; and (4) California handlers may lose opportunity to export dates to France and Belgium if this action is not taken promptly.

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

Dated September 17, 1970, to become effective upon publication in the FEDERAL REGISTER.

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

[F.R. Doc. 70-12652; Filed, Sept. 22, 1970; 8:50 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 70-WE-59]

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

Alteration of Control Zone and Transition Area

On August 6, 1970, a notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 12556) stating that the Federal Aviation Administration was considering amendments to Part 71 of the Federal Aviation Regulations that would alter the descriptions of the Bellingham, Wash., control zone and transition area.

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

Effective date. These amendments shall be effective 0901 G.m.t., November 12, 1970.

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

Issued in Los Angeles, Calif., on September 11, 1970.

LEE E. WARREN,
Acting Director, Western Region.

In § 71.171 (35 F.R. 2054) the description of the Bellingham, Wash., control zone is amended to read as follows:

BELLINGHAM, WASH.

Within a 5-mile radius of Bellingham Municipal Airport (latitude 48°47'40" N., longitude 122°32'10" W.); within 2 miles each side of the Bellingham VORTAC 169° radial, extending from the 5-mile radius zone to 3 miles south of the VORTAC and 4.5 miles each side of the Bellingham VORTAC 169° radial, extending from the 5-mile radius zone to 21.5 miles south of the VORTAC.

In § 71.181 (35 F.R. 2134) the description of the Bellingham, Wash., transition area is amended to read as follows:

BELLINGHAM, WASH.

That airspace extending upward from 700 feet above the surface bounded on the east by longitude 122°15'00" W., on the south by latitude 48°52'00" N., on the west and north by the United States/Canada border, and within 4.5 miles each side of the Bellingham VORTAC 169° radial, extending from 21.5 to 24 miles south of the VORTAC.

[F.R. Doc. 70-12638; Filed, Sept. 22, 1970; 8:49 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

PART 200—FEATHER AND DOWN PRODUCTS INDUSTRY

PART 253—GUIDES FOR THE FEATHER AND DOWN PRODUCTS INDUSTRY

Guides for the Feather and Down Products Industry as hereinafter set forth have been adopted by the Commission to afford guidance as to the legal requirements applicable to the advertising and labeling of industry products in the interest of protecting the public and effecting more widespread and equitable observance of the laws administered by the Commission. It is the Commission's belief that the more

knowledge businessmen have as to the requirements of laws designed to protect the consumer and foster open and fair competition, the greater the likelihood that they will conform to those laws, with attendant benefits to both the public and the business community.

Trade practice rules for this industry were promulgated by the Commission on April 26, 1951. Since that time changes in availability of raw materials, new testing procedures and technology, recent scientific studies, and court decisions indicated that a revision of the rules was needed. Thus, these guides, a revision of the trade practice rules, reflect these developments.

Proceedings to establish these guides were instituted pursuant to an industry application. Proposed guides were thereafter released on August 15, 1969, by the Commission to afford interested or affected parties an opportunity to present the Commission with their views, suggestions, objections, or other information concerning the proposed guides and a public hearing was also held at which further information was presented. After full consideration of all comments that were received, and other pertinent information, the Commission adopted the guides in their present form.

While the guides are interpretive of laws administered by the Commission and thus are advisory in nature, proceedings to enforce the requirements of law as explained in the guides may be brought under the Federal Trade Commission Act (15 U.S.C. secs. 41–58). Briefly stated, the Federal Trade Commission Act makes it illegal for one to engage in "unfair methods of competition in commerce and unfair or deceptive acts or practices in commerce", as commerce is defined therein.

The content of these guides is not to be construed as an expression of opinion concerning the relative merits of the various materials used in the manufacture of the products of this industry. Rather, the disclosure provisions of the guides are intended to insure that the consumer is not deceived into thinking he is receiving one material when actually he is furnishing another.

The guides become effective for products manufactured or assembled after November 22, 1970. These guides supersede the trade practice rules for the Feather and Down Products Industry as promulgated on April 26, 1951 (Part 200).

Inquiries and requests for copies of the guides should be directed to the Division of Industry Guidance, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

Sec.

AUTHORITY: The provisions of this Part 253 issued under secs. 5, 6, 38 Stat. 719, as amended 721; 15 U.S.C. 45, 46.

§ 253.1 Definitions.

(a) *Industry products.* For the purposes of this part the term "industry products" means and includes all pillows, cushions, comforters, sleeping bags, wearing apparel, and similar products, which are wholly or partially filled with feathers or down, and all bulk stocks of processed feathers or down intended for use or used in the manufacture of such products.

(b) *Industry members.* All persons, firms, corporations and organizations engaged in the processing, manufacture, distribution, or marketing of any industry product are considered to be industry members.

(c) *Filling material.* Means the contents of an industry product including feathers and down of any kind or type.

(d) *Down.* Means the undercoating of waterfowl, consisting of clusters of light, fluffy filaments, i.e., barbs, growing from the quill point but without any quill shafts.

(e) *Plumules.* Means downy waterfowl plumage with underdeveloped soft and flaccid quill with barbs indistinguishable from those of down.

(f) *Down fiber.* Means the detached barbs from down and plumules and the detached barbs from the basal end of waterfowl quill shaft which are indistinguishable from the barbs of down.

(g) *Feathers.* Means the plumage or out-growth forming the contour and external covering of fowl which are whole in structure and which have not been processed in any manner other than by washing, dusting, chemical treatment and sanitizing.

(h) *Waterfowl feathers.* Means feathers derived from ducks and geese.

(i) *Nonwaterfowl feathers or landfowl feathers.* Means feathers derived from chickens, turkeys, and other landfowl.

(j) *Quill feathers.* Means feathers which are over 4 inches in length or which have a quill point exceeding six-sixteenths of an inch in length.

(k) *Feather fiber.* Means the detached barbs of feathers which are not joined or attached to each other.

(l) *Crushed feathers.* Means feathers which have been processed by a curling, crushing or chopping machine which has changed the original form of the feathers without removing the quill. The term also includes the fiber resulting from such processing.

(m) *Damaged feathers.* Means feathers which have been broken, damaged by insects, or otherwise materially injured.

(n) *Residue.* Means quill pith, quill fragments, trash or foreign matter. [Guide 1]

§ 253.2 Misrepresentation in general.

(a) An industry product should not be labeled, advertised or otherwise represented in any manner which may have the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers concerning its filling material, covering, composition, quality, processing, testing, manufacture, durability, size, weight, maintenance, cleanliness, construction, warmth, moisture resistance, color, guarantee, origin, price or any other feature of such product.

(b) Coverings of industry products should be labeled in accordance with the requirements of the Textile Fiber Products Identification Act and the Wool Products Labeling Act. [Guide 2]

§ 253.3 Use of trade names, symbols, depictions, etc.

A trade name, symbol, depiction, or any other kind of representation, should not be used in labeling, in advertising or in any other kind of promotion relating to an industry product, when such representation has the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers into believing that the product is composed:

(a) In whole or in part of feathers and down, or feathers, or down, when such is not the fact; or

(b) In whole or in part of feathers or down from a particular type of fowl when such is not the fact; or

(c) That the product has been given chemical treatment to improve its physical or chemical properties when such is not the fact. [Guide 3]

§ 253.4 Misuse of the term "Tan-O-Quil-QM".

(a) The term "Tan-O-Quil-QM" or any words or phrases suggestive thereof should not be used in any labeling or advertising respecting an industry product in any manner which may have the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers into believing that the product or any of its filling material has been treated by the Tan-O-Quil-QM process unless in fact all of the filling material in that product has been treated by the Tan-O-Quil-QM process developed by the Clothing and Organic Materials Laboratory, U.S. Army Natick Laboratories, Natick, Mass., in accordance with applicable U.S. Government specifications (this process is described in Technical Report 69–37–CM, "Tan-O-Quil-QM Treatment for Feathers and Down," dated August 1968).

(b) When the Tan-O-Quil-QM treatment has been applied to all of the filling materials contained in an industry product, the term "Tan-O-Quil-QM" may be used on the label, and the label should include a statement that the product has been so treated in accordance with the applicable U.S. Government Specification showing the number thereof. [Guide 4]

§ 253.5 Disclosure of filling material.

(a) *Labeling.* An industry product should be labeled as to the kind or type of filling material contained therein and

when the filling material consists of a mixture of more than one kind or type, then the proportion of each should be disclosed in the order of predominance, the largest proportion first.

(b) *Advertising.* Disclosure of the kind or type of filling material contained in an industry product need not be made in advertising unless in the absence of disclosure a purchaser or prospective purchaser may likely be deceived. Thus, if advertising contains any representation, whether affirmative or implied, concerning the nature of the filling material, then disclosure should be made in accordance with paragraph (a) of this section.

(c) *Bulk stocks.* Invoices pertaining to bulk stocks of processed feathers and down should disclose the kind or type of feathers and down contained therein, and if more than one kind or type is contained in the bulk stock then the proportion of each should be disclosed in the order of predominance, the largest proportion first.

(d) *Manner and form of disclosures.* The disclosures described in paragraphs (a), (b), and (c) of this section should be made in accordance with the following instructions.

(1) Disclosures with respect to the kind or type of feathers and down by use of any of the terms listed and defined above will be considered proper provided such products conform to the definitions set forth for such term, except that if the term "nonwaterfowl" or "landfowl" is used, it should be accompanied by the name of the fowl from which the products were obtained, e.g., "chicken" or "turkey."

(2) Disclosures made in accordance with this part should be clear and conspicuous, and labels bearing such disclosures should be attached to the product with sufficient permanency so as to remain thereon until after sale to the ultimate purchaser.

(3) The proportion or percentage of a particular kind or type of feathers or down in an industry product should be determined by the relationship between the avoirdupois weight that the particular kind or type bears to the total avoirdupois weight of the filling material in the product. [Guide 5]

§ 253.6 Tolerances in filling material.

(a) *Down products.* The term "Down" may be use to designate any industry product containing the following filling material:

(1) Down, plumules, and down fiber.	Minimum 80%.
Consisting of:	
Down and plumules	Minimum 70%.
Down fiber	Minimum 10%.
(2) Remainder	20%.
Consisting of:	
Down fiber, waterfowl feather fiber, and waterfowl feathers, and nonwaterfowl feathers and nonwaterfowl feather fiber.	Maximum 2%.
Residue	Maximum 2%.

(b) *Waterfowl feather products.* The term "Waterfowl Feathers" may be used to designate any plumage product containing the following filling material which is free of quill and crushed feathers:

Waterfowl feathers	Minimum 80%.
Nonwaterfowl feathers	Maximum 8%.
Residue	Maximum 2%.

(c) *Percentage claims.* An industry member should not misrepresent directly or indirectly the percentage of down contained in an industry product. Illustratively,

(1) A product should not be designated as "100 percent Down," "All Down," "Pure Down," or by other terms of similar import unless it in fact contains only down without regard to the tolerance set forth in this section.

(2) A product should not be represented to contain a certain percentage of down unless it in fact contains the stated percentage without regard to the tolerance set forth in this section.

(d) *Designation of species.* An industry product may be designated by the name of a waterfowl species if a minimum of 90 percent of the waterfowl plumage contained therein is of that species.

(e) *Testing.* Tests to determine the composition of the filling material in an industry product should be conducted in accordance with Federal Sandard 148a, dated December 10, 1964, entitled "Classification, Identification, and Testing of Feather Filling Material."

(f) *Adulteration.* The tolerances set forth in this section are not to be construed to permit intentional adulteration. [Guide 6]

§ 253.7 Crushed feathers.

An industry product which contains crushed feathers should be labeled with a clear and conspicuous disclosure of that fact. A crushed feather product should not contain residue in excess of 5 percent of the weight of the crushed feathers contained therein. [Guide 7]

§ 253.8 Damaged feathers.

An industry product which contains damaged feathers in an amount in excess of 2 percent of the total weight of the filling material should be labeled with a clear and conspicuous disclosure that it contains damaged feathers. [Guide 8]

§ 253.9 Secondhand filling material.

(a) An industry product which contains any filling material which has previously been used should not be offered for sale unless a clear and conspicuous disclosure of that fact is made on the label thereof and in all advertising and invoices relating to such product.

(b) In making the disclosure referred to in paragraph (a) of this section the term "secondhand" may be used. However, such terms as "reworked", "reprocessed" or terms of similar import should not be used unless they are accompanied by a clear and conspicuous statement that such material is not new or has previously been used. [Guide 9]

§ 253.10 Cleanliness of filling material.

(a) An industry product which contains filling materials which have not been cleaned so as to meet the standard set forth in paragraph (b) of this section should not be offered for sale or sold.

(b) A test such as that reflected in Federal Standard 148a, dated December 10, 1964, entitled "Classification, Identification and Testing of Feather Filling Material", should be used to determine whether feathers and down have been properly cleaned. Feather and down material having an oxygen number exceeding 20 grams of oxygen per 100,000 grams of sample should be presumed not to have been properly cleaned. [Guide 10]

§ 253.11 Disclosure as to size.

(a) *Sleeping bags.* The sizes of sleeping bags should be disclosed by labeling and such sizes should be expressed in terms of the finished length and width measurements of the bag in inches qualified by the words "Finished Size". If any representation of the "cut size" or the dimension of the materials used in the construction of sleeping bags, are made in labeling, advertising, marking, or otherwise, the provisions of the Commission's Trade Regulation Rule on the "Advertising and Lebeling as to Size of Sleeping Bags" should be followed (See 16 CFR Part 400).

(b) *Comforters, etc.* The sizes of comforters and other similar industry products should be disclosed by labeling and such sizes should be expressed in terms of the finished length and width measurements in inches exclusive of any fringe ornamentation.

(c) *Pillows, cushions, etc.* The sizes of pillows, cushions and other similar industry products, when disclosed by labeling, should be expressed in terms of finished measurements in inches qualified by the words "Finished Size." This statement may be followed in parentheses by a notation of product measurement in inches prior to finishing, such parenthetical expression to include the phrase "Cut Size." Thus, an example of proper size marking when a pillow has a finished size of 21'' x 27'' and a cut size of 22'' x 28'', and disclosure is made of the cut size, would be: Finished Size 21'' x 27'' (Cut Size 22'' x 28''). [Guide 11]

Promulgated by the Federal Trade Commission, September 23, 1970.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 70-12492; Filed, Sept. 22, 1970, 8:45 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER A—GENERAL

PART 2—ADMINISTRATIVE FUNCTIONS, PRACTICES, AND PROCEDURES

Subpart H—Delegations of Authority

DELEGATIONS FROM THE SECRETARY AND ASSISTANT SECRETARY

Under authority vested in the Secretary of Health, Education, and Welfare

by the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055; 21 U.S.C. 371(a)) and delegated to the Commissioner of Food and Drugs (21 CFR 2.120), § 2.120 is revised to read as follows:

§ 2.120 Delegations from the Secretary and Assistant Secretary.

(a) The Assistant Secretary for Health and Scientific Affairs has redelegated to the Commissioner of Food and Drugs with authority to redelegate (35 F.R. 606, 3000) all authority delegated to him by the Secretary of Health, Education, and Welfare as follows:

(1) Functions vested in the Secretary and the Department of Health, Education, and Welfare under the Federal Food, Drug, and Cosmetic Act as amended (21 U.S.C. 301 et seq.), the Filled Milk Act (21 U.S.C. 61–63), the Federal Import Milk Act (21 U.S.C. 141 et seq.), the Tea Importation Act (21 U.S.C. 41 et seq.), the Federal Caustic Poison Act (44 Stat. 1406), the Federal Hazardous Substances Act as amended (15 U.S.C. 1261 et seq.), the Fair Packaging and Labeling Act (15 U.S.C. 1451 et seq.), and the Flammable Fabrics Act (15 U.S.C. 1201), pursuant to section 12 of Reorganization Plan No. IV and Reorganization Plan No. 1 of 1953, including authority to administer oaths vested in the Secretary of Agriculture by 7 U.S.C. 2217.

(2) Functions vested in the Secretary by amendments to the foregoing statutes subsequent to Reorganization Plan No. 1 of 1953.

(3) Functions pertaining to sections 301, 311, 314, and 361 of the Public Health Service Act (42 U.S.C. 241, 243, 246, and 264) that relate to pesticides, product safety, interstate travel sanitation, milk and food service sanitation, shellfish sanitation, and poison control.

(4) Functions under Executive Order 11490, section 1103(5), and those portions of sections 1103 (1), (3), and (4), 3001 (2) and (3), 3002 (1), (2), and (3), and 3004 that relate to food, drugs, and biologicals. In the performance of these emergency functions, the Commissioner shall coordinate his activities with the Administrator, Health Services and Mental Health Administration, in order that preemergency plans shall be developed in consonance with postattack organizational plans and structure of the Department for the Emergency Health Service.

(5) Function of issuing all regulations of the Food and Drug Administration. The reservation of authority contained in Chapter 1A (formerly 2–000) of the Department Organization Manual shall not apply.

(6) Function of authorizing and approving miscellaneous and emergency expenses of enforcement activities vested in the Secretary.

(b) The Assistant General Counsel in charge of the Division of Food, Drug, and Environmental Health has been authorized to report apparent violations to the Department of Justice for the institution of criminal proceedings, pursuant to section 305 of the Federal Food, Drug, and Cosmetic Act, section 4 of the Federal Import Milk Act, section 9(b) of the Federal Caustic Poison Act, and section 4 of the Federal Hazardous Substances Act.

(c) The Assistant Secretary for Administration has redelegated (34 F.R. 18049, 35 F.R. 607) to the Commissioner of Food and Drugs, with authority to redelegate, the authority: To certify true copies of any books, records, papers, or other documents on file within the Department, or extracts from such; to certify that true copies are true copies of the entire file of the Department; to certify the complete original record or to certify the nonexistence of records on file within the Department; and to cause the Seal of the Department to be affixed to such certifications and to agreements, awards, citations, diplomas, and similar documents.

Effective date. This order is effective on its date of signature.

(Sec. 701(a), 52 Stat. 1055; 21 U.S.C. 371(a))

Dated: September 10, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70-12588; Filed, Sept. 22, 1970; 8:45 a.m.]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 120—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Inorganic Bromide Residues Resulting From Ethylene Dibromide Fumigation

No comments or requests for referral to an advisory committee were received in response to the notice published in the FEDERAL REGISTER of March 13, 1970 (35 F.R. 4518), proposing establishment of a tolerance of 10 parts per million for residues of inorganic bromides in or on longan fruit fumigated after harvest with ethylene dibromide. The Commissioner of Food and Drugs concludes that the proposal should be adopted.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e)) and under authority delegated to the Commissioner (21 CFR 2.120), § 120.146 is amended by revising the second paragraph to read as follows:

§ 120.146 Inorganic bromides or total combined bromide resulting from fumigation with ethylene dibromide; tolerances for residues.

* * * * *

Tolorences of 10 parts per million are established for residues of inorganic bromides (calculated as Br) in or on the following raw agricultural commodities that have been fumigated after harvest with ethylene dibromide in accordance with the Mediterranean Fruit Fly Control Program or the Quarantine Program of the U.S. Department of Agriculture: Beans (string), bitter melons (*Momordica charantia*), cantaloups, Cavendish bananas, citrus fruits, cucumbers, guavas, litchi fruit, litchi nuts, longan fruit, mangoes, papayas, peppers (bell), pineapples, and zucchini squash.

* * * * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing with be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER.

(Sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e))

Dated: September 14, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70-12589; Filed, Sept. 22, 1970; 8:45 a.m.]

PART 120—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Endosulfan

A petition (PP OFO922) was filed with the Food and Drug Administration by FMC Corp., Niagara Chemical Division, 100 Niagara Street, Middleport, N.Y. 14105, proposing establishment of tolerances for negligible residues of the insecticide endosulfan (6,7,8,9,10,10-hexachloro - 1,5,5a,6,9,9a - hexahydro - 6,9 - methano - 2,4,3, - benzodioxathiepin - 3 - oxide) and its metabolite endosulfan sulfate (6,7,8,9,10,10-hexachloro-1,5,5a,6,9,9a - hexahydro - 6,9 - methano - 2,4,3 - benzodioxathiepin-3,3-dioxide) in or on the raw agricultural commodities almonds, filberts, macadamia nuts, pecans, and walnuts at 0.2 part per million. Almonds were later deleted.

The Secretary of Agriculture has certified that this pesticide chemical is useful for the purposes for which the tolerances are being established.

Based on consideration given the data submitted in the petition and other relevant material, the Commissioner of Food and Drugs concludes that the tolerances established by this order will protect the public health. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)) and

under authority delegated to the Commissioner (21 CFR 2.120), § 120.182 is amended by revising the last paragraph "0.2 part per million (negligible residue) * * * " to read as follows:

§ 120.182 Endosulfan; tolerances for residues.

* * * * *

0.2 part per million (negligible residues) in or on filberts, macadamia nuts, pecans, potatoes, safflower seed, and walnuts.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER.

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: September 14, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70-12590; Filed, Sept. 22, 1970; 8:45 a.m.]

PART 121—FOOD ADDITIVES

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

Subpart D—Food Additives Permitted in Food for Human Consumption

OXYTETRACYCLINE

The Commissioner of Food and Drugs has evaluated a new animal drug application (38-439V) filed by Chas. Pfizer & Co., Inc., 235 East 42d Street, New York, N.Y. 10017, proposing the safe and effective use of oxytetracycline in the feed of fish for the control of certain disease conditions. The application is approved.

Having evaluated the data before him, the Commissioner concludes that a tolerance for negligible residues of oxytetracycline is required to assure that edible tissues of salmonids and catfish are safe for human consumption. The tolerance established would include negligible residues of oxytetracycline in edible tissues of salmon treated as previously prescribed in § 121.251.

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

1. Section 121.251(d) is amended in table 4 by redesignating the second column heading to read "Amount", by inserting new subheadings in the "Amount" column as indicated below, and by designating the existing text as item 1 and adding to the table new items 2 and 3, as follows:

§ 121.251 Oxytetracycline.

* * * * *

(d) * * *

TABLE 4—OXYTETRACYCLINE IN FISH FEED

	Amount	Limitations	Indications for use
1. Oxytetracycline	*Mg. per kg. of fish per day* 250 *Grams per 100 lb. of fish per day*	* * *	* * *
2. Oxytetracycline	2.5-3.75	For salmonids; administer as oxytetracycline monoalkyl (C_8-C_{18}) trimethyl-ammonium salt of oxytetracycline in mixed ration for 10 days; do not liberate fish or slaughter fish for food for 21 days following the last administration of medicated feed; do not administer when water temperature is below 9° C. (48.2° F.).	Control of ulcer disease caused by *Hemophilus piscium*, furunculosis caused by *Aeromonas Salmonicida*, bacterial hemorrhagic septicemia caused by *Aeromonas liquefaciens*, and pseudomonas disease.
3. Oxytetracycline	2.5-3.75	For catfish; administer as oxytetracycline monoalkyl (C_8-C_{18}) trimethyl-ammonium salt of oxytetracycline in mixed ration for 10 days; do not liberate fish or slaughter fish for food for 21 days following the last administration of medicated feed; do not administer when water temperature is below 16.7° C. (62° F.).	Control of bacterial hemorrhagic septicemia caused by *Aeromonas liquefaciens* and pseudomonas disease.
* * *	* * *	* * *	* * *

2. Section 121.1046 is amended by adding a new paragraph (d), as follows:

§ 121.1046 Oxytetracycline.

* * * * *

(d) A tolerance of 0.1 part per million is established for negligible residues of oxytetracycline in uncooked edible tissues of salmonids and catfish.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER.

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

Dated: September 11, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70-12591; Filed, Sept. 22, 1970; 8:45 a.m.]

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

α-HYDRO-*omega*-HYDROXY-POLY(OXYETHYLENE) POLY (OXYPROPYLENE) (55-61 MOLES) POLY(OXYETHYLENE) BLOCK COPOLYMER

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP OA2511) filed by Wyandotte Chemical Corp., 1609 Biddle Avenue, Wyandotte, Mich. 48192, and other relevant material, concludes that a food additive regulation should be established (1) to provide for the safe use of α-hydro-*omega*-hydroxy-poly(oxyethylene)poly-(oxypropylene)(55-61 moles)poly(oxyethylene) block copolymer as a solubilizing and stabilizing agent in flavor concentrates as set forth below and (2) to incorporate under the general category of copolymer condensates of ethylene oxide and propylene oxide, the subject item together with α-hydro-*omega*-hydroxy-poly-(oxyethylene) poly (oxypropylene) (53-59 moles) poly(oxyethylene) (14-16 moles) block copolymer provided for under § 121.1137.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 121 is amended by adding to Subpart D the following new section:

§ 121.1235 Copolymer condensates of ethylene oxide and propylene oxide.

Copolymer condensates of ethylene oxide and propylene oxide may be safely used in food under the following prescribed conditions:

(a) The additive consists of one of the following:

(1) α-Hydro - *omega* - hydroxy - poly (oxyethylene) poly (oxypropylene) - (55–61 moles) poly (oxyethylene) block copolymer, having a molecular weight range of 9,760–13,200 and a cloud point above 100° C. in 1 percent aqueous solution.

(2) α-Hydro - *omega* - hydroxy - poly (oxyethylene) poly (oxypropylene) - (53–59 moles) poly (oxyethylene) (14 – 16 moles) block copolymer, having a molecular weight range of 3,500–4,125 and a cloud point of 9° C.–12° C. in 10 percent aqueous solution.

(b) The additive is used or intended for use as follows:

(1) The additive identified in paragraph (a) (1) of this section is used in accordance with good manufacturing practice as a solubilizing and stabilizing agent in flavor concentrates (containing authorized flavoring oils) for use in foods for which standards of identity established under section 401 of the act do not preclude such use, provided that the weight of the additive does not exceed the weight of the flavoring oils in the flavor concentrate.

(2) The additive identified in paragraph (a) (2) of this section is used as a processing aid and wetting agent in combination with dioctyl sodium sulfosuccinate for fumaric acid as prescribed in § 121.1137.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with Hearing Clerk, Department of Health, Education, and Welfare, Room 6–62, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348 (c)(1))

Dated: September 9, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70–12592; Filed, Sept. 22, 1970; 8:45 a.m.]

SUBCHAPTER C—DRUGS

PART 148i—NEOMYCIN SULFATE

Neomycin Sulfate Oral Solution

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), Part 148i is amended by adding a new section as follows to provide for certification of the subject antibiotic drug:

§ 148i.50 Neomycin sulfate oral solution.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Neomycin sulfate oral solution is neomycin sulfate with or without one or more suitable and harmless flavorings, colorings, and preservatives in an aqueous vehicle. Each milliliter contains 17.5 milligrams of neomycin. Its potency is satisfactory if it is not less than 90 percent and not more than 125 percent of the number of milligrams of neomycin that it is represented to contain. Its pH is not less than 5.0 and not more than 7.5. The neomycin sulfate used conforms to the standards prescribed by § 148i.1(a)(1) (i), (iv), (v), (vi), and (vii).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 148.3 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The neomycin sulfate used in making the batch for potency, toxicity, moisture, pH, and identity.

(*b*) The batch for potency and pH.

(i) Samples required:

(*a*) The neomycin sulfate used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch: A minimum of 6 immediate containers.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 141.110 of this chapter, except prepare the sample as follows: Remove an accurately measured representative portion with a suitable syringe, and dilute with sufficient 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), to give a stock solution of convenient concentration. Further dilute with solution 3 to the reference concentration of 1 microgram of neomycin per milliliter (estimated).

(2) *pH.* Proceed as directed in § 141.503 of this chapter, using the undiluted sample.

Data supplied by the manufacturer concerning the subject antibiotic drug have been evaluated. Since the conditions prerequisite to providing for its certification have been complied with and since not delaying in so providing is in the public interest, notice, and public procedure and delayed effective date are not prerequisites to this promulgation.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER.

(Sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357)

Dated: September 11, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70–12595; Filed, Sept. 22, 1970; 8:46 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 7061]

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

Activities of Fraternal Beneficiary Societies

On June 3, 1970, notice of proposed rule making with respect to amendment of the Income Tax Regulations (26 CFR Part 1) under section 501 of the Internal Revenue Code of 1954, relating to exemption from tax on corporations, certain trusts, etc., was published in the FEDERAL REGISTER (35 F.R. 8569). After consideration of all the relevant matter presented by interested persons regarding the rule proposed, the amendment so proposed is adopted without change as follows:

Section 1.501(c)(8)–1 is amended by revoking paragraph (b).

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

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

Approved: September 17, 1970.

JOHN S. NOLAN,
Acting Assistant Secretary of the Treasury.

[F.R. Doc. 70–12651; Filed, Sept. 22, 1970; 8:50 a.m.]

Title 28—JUDICIAL ADMINISTRATION

Chapter I—Department of Justice

[Order No. 439–70]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Subpart C—Office of the Deputy Attorney General

OFFICE OF THE DIRECTOR, U.S. MARSHALS SERVICE

By virtue of the authority vested in me by 28 U.S.C. 509, 510 and 569 and 5 U.S.C. 301 and 2903(b), § 0.17 of Subpart C of

Part 0 of Chapter I of Title 28 of the Code of Federal Regulations is revised to read as follows:

§ 0.17 Office of the Director, U.S. Marshals Service.

The Office of the Director, U.S. Marshals Service, shall be under the supervision of the Deputy Attorney General and shall direct and supervise the U.S. Marshals, coordinate and direct the relationship of other organizational units of the Department with the offices of U.S. Marshals, and approve staffing requirements of such offices. In addition, the Director is authorized to:

(a) Deputize selected officers or employees of the United States to perform the functions of a U.S. Deputy Marshal in any district designated by the Director;

(b) Deputize whenever the needs of the U.S. Marshals Service so require selected State or local law enforcement officers to perform the functions of a U.S. Deputy Marshal in any district designated by the Director;

(c) Administer the oath of office required by section 3331 of title 5, United States Code, and administer any other oath required by law in connection with employment in the Executive branch of the Federal Government, in particular the oath required by section 563 of title 28, United States Code;

(d) Perform the duties and functions of a U.S. Deputy Marshal for the District of Columbia.

Dated: September 14, 1970.

JOHN N. MITCHELL,
Attorney General.

[F.R. Doc. 70-12586; Filed, Sept. 22, 1970; 8:45 a.m.]

Title 29—LABOR

Subtitle A—Office of the Secretary of Labor

PART 70—EXAMINATION AND COPYING OF LABOR DEPARTMENT DOCUMENTS

Revision of Fee Schedule for Providing Copies

Section 70.6 of Title 29, Code of Federal Regulations, concerning examination and copying of Department of Labor documents, as provided in 5 U.S.C. 552 prescribes the fee for reproduction of documents thereunder. The purpose of this amendment is to substitute a new fee schedule which is deemed fair and equitable in light of the direct and indirect costs of reproduction of records and searching for the records.

Because the rule is one of agency management and is inconsequential in nature, notice and public participation under 5 U.S.C. 553 are considered neither necessary nor useful. For this reason, good cause is also found to waive the 30-day delay in effective date therein provided.

Section 70.6 is hereby amended to read as follows:

§ 70.6 Copies; services.

(a) *Fees for copying and services.* (1) The following schedule shall be applicable to the rendering of the following special services:

(i) For each one quarter man-hour or fraction thereof spent in excess of the first quarter hour in searching for or producing a requested record other than records in a public reference facility maintained by the Department of Labor pursuant to 5 U.S.C. 552(a)(2)	$1.00
(ii) For copies of documents other than those duplicated for distribution for no fee and except as otherwise provided in § 70.6(c) and § 70.8(b): Each page	$0.30
(iii) Maximum number of copies furnished of any document	10
(iv) For certification of true copies, each	$1.00
(v) For attestation under the seal of the Department, each	$3.00

(2) Payment under this section shall be made in cash, by U.S. postal money order, or by check payable to the Secretary of Labor. Postage stamps, in lieu of cash, checks, or money orders will not be accepted. Where the estimated fee paid in advance exceeds the fee chargeable under this schedule, the balance will be refunded. Where such copying by the Department of Labor at the expense of the requesting person is requested, the request filed pursuant to § 70.4 may be by mail. In such case, such postal fees in excess of domestic first-class postal rates as are necessary for the type of transmittal of copies requested will be added to the per-page fee specified, unless appropriate stamps or stamped envelopes are furnished with the request.

(3) Rule of construction: It is the intent of this paragraph (a) to apply the user charge statute (31 U.S.C. 483a) in accordance with the guidance of the user charges policy contained in the Bureau of the Budget Circular No. A-25, "User Charges," which states generally that where services are provided that are above and beyond those which accrue to the public at large a charge should be imposed to recover the cost of rendering the services. The paragraph is not intended to require the charging of a fee under other circumstances; e.g., when reasonable quantities of the information have been printed or otherwise reproduced for the purpose of making it available to the public without charge.

(b) *Manual copying by requesting party.* Any document released for inspection under this part may be manually copied by the requesting party. The Department shall provide facilities for copying such documents without charge.

* * * * *

(Stat. 301, 80 Stat. 379, sec. 1, 48 Stat. 582 as amended in 49 Stat. 154, 50 Stat. 259, and 53 Stat. 581, sec. 2, 48 Stat. 582 as amended in 49 Stat. 154, 50 Stat. 259, and 53 Stat. 581, sec. 3, 48 Stat. 583, as amended in 49 Stat. 154, 50 Stat. 259, 53 Stat. 581 and 60 Stat. 867, sec. 16a, 76 Stat. 38, sec. 205, 73 Stat. 528, sec. 501, 65 Stat. 290; 5 U.S.C. 301, 29 U.S.C. 9, 9a, 9b, 308a, 435, 31 U.S.C. 483a)

This amendment shall take effect upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., this 15th day of September 1970.

J. D. HODGSON,
Secretary of Labor.

[F.R. Doc. 70-12664; Filed, Sept. 22, 1970; 8:51 a.m.]

Title 32—NATIONAL DEFENSE

Chapter VII—Department of the Air Force

SUBCHAPTER A—ADMINISTRATION

PART 809c—ELEMENTARY AND SECONDARY EDUCATION OF DEPENDENTS IN OVERSEAS AREA

A new Part 809c is added to read as follows:

Subpart A—General Information

Sec.
809c.1 Purpose.
809c.2 Definitions.

Subpart B—Responsibilities for Dependent Education

809c.3 Department of Defense (DOD) responsibilities.
809c.4 Hq USAF responsibilities.
809c.5 Hq Pacific Air Force (PACAF) responsibilities.
809c.6 Other major command responsibilities.

Subpart C—Mission and Concept of Operation

809c.7 Mission.
809c.8 Concept of operation.
809c.9 Eligibility for enrollment.
809c.10 School transportation.
809c.11 Summer school.

Subpart D—Tuition-Fee Schools and Correspondence Courses

809c.12 Tuition-fee schools.
809c.13 Correspondence course.
809c.14 Charges to parents.
809c.15 Reimbursement to parents.

AUTHORITY: The provisions of this Part 809c issued under 10 U.S.C. 8012.

Subpart A—General Information

§ 809.1 Purpose.

This part states policies and tells how to provide elementary and secondary education for Department of Defense dependents in Air Force-operated schools in the Pacific School Area. It also states policies for commands to provide logistic support for dependent schools on Air Force installations in the European and Atlantic School Area. It implements Part 69 of this title.

§ 809.2 Definitions.

For the purposes of this part, the following terms apply:

(a) *Air Force-operated school.* Service operated schools located in the Pacific School Area, regardless of installation

affiliation, including all countries and locations in the Pacific and Far East to 90 degrees east longitude which are funded from Air Force appropriated funds and manned from Air Force manpower resources.

(b) *Army-operated schools.* Service-operated schools located in the European School Area, regardless of installation affiliation, including all countries and locations in Europe, Africa, and Asia to 90 degrees east longitude which are funded from Army appropriated funds and manned from Army manpower resources.

(c) *Navy-operated schools.* Service-operated schools located in the Atlantic School Area, regardless of installation affiliation, including all oversea countries and locations in the Atlantic and in North, Central, and South America which are funded from Navy appropriated funds and manned from Navy manpower resources.

(d) *Tuition-fee school.* A private or public school that provides elementary or secondary education to eligible dependents and to which tuition is paid from appropriated funds under an Air Force contract.

(e) *Overseas areas.* Areas outside the continental limits of the United States except Alaska, Hawaii, Puerto Rico, Guam, the Virgin Islands, and Wake Island.

(f) *Elementary and secondary education.* Education at Government expense for grades kindergarten through 12 which may be offered in service-operated schools, tuition-fee schools, or through correspondence courses appropriate for the grade level.

(g) *Logistic support.* Includes services, equipment and facilities controlled by the installation commander which are provided on a reimbursable or nonreimbursable basis.

(h) *Geographic manager.* Secretaries of military departments or their designees.

(i) *Correspondence courses.* Elementary or secondary education provided through home-study courses and procured from appropriated funds with the approval of the area superintendent.

(j) *Space required.* Pupil spaces which must be provided in a dependents school and for which personnel, materials, and facilities must be programed.

(k) *Space available.* Pupil spaces available in a dependents school which may be occupied without increasing the cost of personnel, equipment, materials, or facilities, and without degrading the learning opportunities of the space required pupils.

(l) *Dependent child.* The unmarried child, stepchild, legally adopted child, or legal ward of a sponsor, or a child who is resident in the household of a sponsor who stands in loco parentis, and such child is, in fact, dependent on the sponsor for more than one-half of his or her support.

(m) *Handicapped child.* A dependent child having mental, emotional, or physical disability, and whose special learning needs cannot be met adequately through the regular instructional program. This category includes educable and trainable children. An educable child is one who can benefit from an academic program modified to suit his needs. A trainable pupil is one who cannot benefit from an academic program regardless of extent of modification, and probably can not achieve literacy, but who can be trained. The Area Superintendent will establish the lower levels of educability and trainability based on the experience of the school system.

Subpart B—Responsibilities for Dependent Education

§ 809c.3 Department of Defense responsibilities.

(a) The Assistant Secretary of Defense (Manpower and Reserve Affairs) establishes policies for the organization and operation of the DOD Overseas Dependents Schools.

(b) The Assistant Secretary of Defense (Installations and Logistics) establishes policies for the logistical support of the DOD Overseas Dependents Schools.

§ 809c.4 Hq USAF responsibilities.

The Dependents School Branch (AFDPTEB), under the direction of the Secretary of the Air Force or his designee, provides general supervision, policy and program guidance for operating the dependents education program in the Pacific School Area, and logistic support for which the Air Force is responsible.

§ 809c.5 Hq Pacific Air Force (PACAF) responsibilities.

Hq PACAF provides a Pacific School Area Superintendent and Staff. He is under the guidance, supervision and review of Hq USAF and Hq PACAF.

§ 809c.6 Other Major Command responsibilities.

(a) Program, budget, and finance all nonreimbursable logistic support. Furnish, on a reimbursable basis, other logistic support agreed upon with the geographic manager for schools established on their respective installations.

(b) Provide information on contract education and correspondence course requirements to the appropriate Area Superintendent.

Subpart C—Mission and Concept of Operation

§ 809c.7 Mission.

The mission of the DOD Overseas Dependents Schools is to maintain a school system which provides education opportunities through 13 years of school (kindergarten through grade 12); to assure that such educational opportunities are of high quality and are comparable in all respects to the better school systems of the United States; to maintain such schools in sufficient number and types, properly staffed and equipped, to provide quality education for eligible dependent children of U.S. military and civilian personnel of the DOD stationed in oversea areas.

§ 809c.8 Concept of operation.

The Overseas Dependents School System is divided into three geographical areas—European, Atlantic, and Pacific—with operational and administrative responsibility for each being assigned to a military department.

§ 809c.9 Eligibility for enrollment.

Unmarried dependent children who will be at least 5, but not yet 21 years of age by December 31 of the current year (or handicapped dependent children, regardless of age, who are to be enrolled in a preschool, regular school, or post-school program) may be enrolled in dependents schools under the conditions prescribed and the priorities indicated in this section. These provisions do not preclude admission of a first grade or kindergarten pupil who transfers within the school year from a CONUS school with different age criteria.

(a) *Priority I—space required, tuition-free.* (1) The following may attend a DOD Overseas Dependents School on a space-required, tuition-free basis, except when the presence of the dependents in the overseas area is prohibited by command policies.

(i) Eligible dependents of U.S. military personnel who are on active duty and stationed overseas. Dependents of members of the Coast Guard stationed overseas are authorized tuition-free schooling, when that service is operating as a service in the Navy, and also dependents of members of the Coast and Geodetic Survey stationed overseas when that service is serving with one of the Armed Forces.

(ii) Eligible dependents of U.S. citizen or immigrant alien, as defined in 8 U.S.C. 1101(a)(15), who are employees of the DOD stationed overseas and who are paid from appropriated funds.

(2) If dependents are authorized to accompany sponsors to the area of sponsor's assignment, such dependents ordinarily will not be entitled to space-required, tuition-free education in another foreign area. Any exception to this policy must be approved by the Deputy Assistant Secretary of Defense (Education). Requests for exception will be submitted to Hq USAF (AFDPTEB) through local dependents schools officials and the geographic manager. Similarly, such dependents will not be eligible for receipt of education at tuition-fee schools at Government expense.

(3) Eligible dependents in categories (i) and (ii) of this paragraph who are authorized transportation at Government expense to an overseas area are also eligible for education in a tuition-fee school at Government expense in that same overseas area.

(4) Dependents of military or civilian personnel who are stationed in an overseas area to which their dependents are not authorized transportation at Government expense, and who have elected to transport their dependents at their own expense to an overseas area, will be authorized space-required, tuition-free education in service-operated schools

only if their presence is not prohibited by command policy.

(i) This category of space-required, tuition-free education for dependents who are not authorized transportation at Government expense but who are transported at the sponsor's expense will be discontinued after June 30, 1971. Following this date, space-required, tuition-free education will become space-available, tuition-free education for this category of dependent.

(ii) The ASD (M&RA) will consider requests for continuation of the space-required, tuition-free category for specific schools or school districts only when it can be demonstrated on a district-wide basis that an exception is in the best interest of the DOD and justifies exception to the general policy of reducing visibility of U.S. presence, balance of payments deficit, or risk which resulted in the limitation of accompanied tours. Any such request should include a statement as to why the purpose of the requested exception can not be met by authorizing the dependents to accompany sponsors at Government expense on a case-by-case basis. Requests for exception should be submitted to Hq USAF (AFDPTEB) through local school officials and the geographic manager.

(5) Dependents who are authorized attendance in a DOD Overseas Dependents School or in a tuition-fee school may complete the current school year if, during the year, the sponsor is transferred or dies while on active duty.

(6) Dependents of a sponsor who is detained by a foreign power or is declared missing-in-action may remain in a DOD Overseas Dependents School or in a tuition-fee school at Government expense for as long as the detention or missing status continues to exist. In the above situations, proper authorization for the dependent to remain most be obtained from the local dependents school officials and the local military commander.

(b) *Priority II—space required, tuition paying.* The following may attend a DOD Overseas Dependents School on a space-required, tuition-paying basis:

(1) Dependents of employees of other U.S. governmental agencies stationed overseas who are eligible to receive an educational allowance for their dependents under the State Department Standardized Regulations (Government Civilians, Foreign Areas).

(2) Dependents of U.S. citizen or immigrant-alien sponsors who are employed under contracts or other agreements with the DOD which authorize dependent education on a tuition basis in DOD Overseas Dependent Schools, such as the following:

(i) American Red Cross personnel.

(ii) Contract technical services and contract maintenance personnel.

(iii) Employees of nonappropriated fund activities.

(3) Dependents of third-state national military and civilian personnel accompanying or serving with the U.S. Armed Forces overseas when recommended by the major overseas commander and approved by the appropriate DOD Dependents Schools geographical area manager.

(c) *Priority III—space-available, tuition paying.* At the discretion of the local dependents school authorities and when consistent with the local military commander's policy concerning access to the installation and agreements with the host government concerned, the following may be enrolled, in the priority given, on payment of the established tuition:

(1) Dependents of United States citizens residing in the overseas area including dependents of deceased or retired United States military personnel.

(2) Dependents of United States citizen or immigrant-alien sponsors who are employed under contracts or other agreements with the DOD, but whose contracts do not authorize dependent education on a tuition-fee, space-required basis in a DOD Overseas Dependents School.

(3) Dependents of foreign nationals, when there is no objection from the host country, and when such inclusion does not displace or prevent inclusion of United States citizen-sponsored dependents seeking admission on the same basis at the same time.

§ 809c.10 School transportation.

Transportation of eligible pupils to and from school on a daily commuting basis will be provided by the host installation. The cost of this transportation is chargeable to the dependents education program, and is reimbursable by the geographic manager. Services furnished will be agreed on in advance of the installation commander and the geographic manager or his designated representative. Commercial contracts may be entered into by the installation commander, or directly by the geographic manager.

§ 809c.11 Summer school.

(a) *Remedial and makeup.* (1) Summer school is authorized, tuition-free, for remedial and makeup work by dependent children who are recommended by the teacher and approved by the principal.

(2) Summer school will meet for no more than 30 days; the school, or a given class, may be of shorter duration if needs of the pupils can be met by the shorter term. A command-wide average of at least 10 pupils per class must be maintained.

(3) Qualified teachers and adequate supervision must be available. Secondary classes for credit must conform to North Central Association requirements. A record of work completed will be entered on appropriate school records, and a suitable report will be made to the pupil's sponsor.

(4) The categories of dependent children described in § 809c.9 will be charged tuition at a proportional cost of the tuition charged during the regular school year.

(b) *Enrichment and acceleration.* Summer school is authorized on a tuition basis for all dependent children described in § 809c.9. The tuition charged will be at the same rate charged the non-DOD students referred to in paragraph (a) of this section.

Subpart D—Tuition-fee Schools and Correspondence Courses

§ 809c.12 Tuition-fee schools.

(a) *Criteria for use.* In areas where there are no service-operated schools, contracts may be negotiated with local tuition-fee schools for the education (including daily authorized transportation to and from the school) of eligible dependents. When considering contracting with tuition-fee schools, applicable provisions of AFR 26–12 (Use of Contract Services and Operation of Commercial or Industrial Activities) should be followed. In areas where Air Force-operated schools, including high schools with dormitory facilities are available, make maximum use of such facilities. Contracting with tuition-fee schools in areas where service-operated schools exist is authorized only when:

(1) Air Force-operated schools are operating at maximum capacity.

(2) Adequate educational services are not offered at the Air Force-operated school for handicapped children, or

(3) Air Force-operated schools are not considered available. Nonavailability may be determined when either of the following conditions exist:

(i) The Area Superintendent determines that daily commuting time to an Air Force-operated school is unreasonable.

(ii) In the case of dormitory schools, when space is available, but it is determined that because of the youthfulness or immaturity of the child, or unfeasible transportation arrangements (e.g., cost, extreme distance, unavailability, scheduling, or inappropriate routing), attendance at the Air Force-operated school would not be in the best interests of the child or sponsor.

§ 809.13 Correspondence course.

If neither service-operated dependents schools nor adequate tuition-fee schools are available, the area superintendent will procure correspondence courses offered by educational institutions that are accredited by a State department of education or a regional accrediting association. Such correspondence courses also may be procured to supplement the curricula of tuition-fee schools or small service-operated schools where course offerings are limited in particular subject areas, which are normally part of the required curriculum in the United States.

§ 809.14 Charges to parents.

Parents of children who meet the criteria in § 809c.9(a) will not be responsible for any costs that are chargeable to the annual funding limitation. Parents of children who do not meet those criteria will be charged a tuition fee for each child attending Air Force-operated schools. The fee charged to tuition paying pupils should equal the per pupil cost (PPC) of educating space-required pupils in service-operated schools. This

PPC is determined by dividing the estimated O&M costs which will be charged against space-required dependents education (minus tuition and transportation charged against contract education, room and board costs associated with attendance at dormitories or boarding schools, and costs of correspondence courses) by the number of space-required pupils. The pro rata share of the cost of handling tuition collections should also be added, if applicable, and such costs are identifiable. Tuition fees for kindergarten should be one-half of the amount charged pupils in grades one to 12. District Superintendents are authorized to disenroll non-DOD tuition paying students when tuition payments are not made in accordance with the established tuition payment schedule. Payments received will be handled as outlined in AFM 172-1 (AF Manual of Budget Administration).

§ 809c.15 Reimbursements to parents.

(a) Parents will not be reimbursed from appropriated funds for costs that are chargeable to appropriated funds and the annual funding limitation.

(b) No reimbursements will be made by the other military departments. All DOD students will attend Air Force-operated schools on a common-service basis.

By order of the Secretary of the Air Force.

ALEXANDER J. PALENSCAR, Jr.,
Colonel, USAF, Chief, Special Activities Group, Office of The Judge Advocate General.

[F.R. Doc. 70-12587; Filed, Sept. 22, 1970; 8:45 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

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

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 4894]

[Arizona 09229-A]

ARIZONA

Partial Revocation of Public Land Order No. 1985

By virtue of the authority vested in the President, and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Public Land Order No. 1985 of September 21, 1959, which withdrew the following public lands, is hereby revoked as to the lands described:

GILA AND SALT RIVER MERIDIAN

T. 41 N., R. 12 W.,
Sec. 5, lots 3, 4, S½NW¼;
Sec. 6, lots 1 to 5, inclusive, S½NE¼, SE¼NW¼.
T. 42 N., R. 12 W.,
Sec. 31, SE¼.

The areas described aggregate 638.11 acres in Mohave County.

The lands are situated in the extreme northwestern corner of Mohave County near the Utah State line. The terrain ranges from near level to moderately sloping. Soils are generally deep with a Southern Desert Shrub vegetative cover.

2. This revocation is made in furtherance of State Exchanges under subsections (c) and (d) of section 8 of the Taylor Grazing Act of June 28, 1934, 48 Stat. 1272, as amended, 43 U.S.C. § 315g (1964), by which the offered lands will benefit a Federal land program. Accordingly, the land described in paragraph 1 of this order is hereby classified pursuant to section 7 of said Act, 43 U.S.C. § 315f (1964), as suitable for such exchanges. The land, therefore, will not be subject to other use or disposition under the public land laws in the absence of a modification or revocation of such classification (43 CFR 2232.1-4).

HARRISON LOESCH,
Assistant Secretary of the Interior.

SEPTEMBER 16, 1970.

[F.R. Doc. 70-12613; Filed, Sept. 22, 1970; 8:47 a.m.]

[Public Land Order 4895]

[Arizona 4610]

ARIZONA

Partial Revocation of Reclamation Withdrawal

By virtue of the authority contained in section 3 of the Act of June 17, 1902, 32 Stat. 388, as amended and supplemented, 43 U.S.C. section 416 (1964), it is ordered as follows:

1. The departmental orders of January 31, 1903, September 8, 1903, and June 4, 1930, withdrawing lands for reclamation purposes, are hereby revoked so far as they affect the following described land:

GILA AND SALT RIVER MERIDIAN

T. 13 N., R. 20 W.,
Sec. 14, lot 2.

The area described aggregates approximately 33.83 acres in Mohave County.

The land is located near Lake Havasu City approximately 60 miles southwest of Kingman. Topography is rough and broken. Soils are mostly sand and gravel.

2. At 10 a.m. on October 22, 1970, the land will be open to operation of the public land laws, including the U.S. mining laws, subject to valid existing rights, the provisions of existing classifications and withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on October 22, 1970, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing. The land will be open to applications and offers under the mineral leasing laws.

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

HARRISON LOESCH,
Assistant Secretary of the Interior.

SEPTEMBER 16, 1970.

[F.R. Doc. 70-12614; Filed, Sept. 22, 1970; 8:47 a.m.]

[Public Land Order 4896]

[Colorado 11036]

COLORADO

Partial Revocation of Stock Driveway Withdrawal

By virtue of the authority contained in section 10 of the Act of December 29, 1916, 39 Stat. 865, as amended, 43 U.S.C. section 300 (1964), it is ordered as follows:

1. The Departmental Order of October 9, 1917, creating Stock Driveway Withdrawal No. 2 (Colorado No. 2), is hereby revoked so far as it affects the following described lands:

RIO GRANDE NATIONAL FOREST

NEW MEXICO PRINCIPAL MERIDIAN, COLORADO

T. 45 N., R. 4 E.,
Sec. 2, lots 1, 2, 3, 4, S½N½;
Sec. 23, S½.
T. 41 N., R. 6 E.,
Sec. 4, N½SE¼.

The areas described aggregate 724.40 acres in Saguache County.

2. At 10 a.m. on October 22, 1970, the lands shall be open to such forms of disposition as may by law be made of national forest lands.

HARRISON LOESCH,
Assistant Secretary of the Interior.

SEPTEMBER 16, 1970.

[F.R. Doc. 70-12615; Filed, Sept. 22, 1970; 8:47 a.m.]

[Public Land Order 4897]

[Idaho 3148]

IDAHO

Partial Revocation of Reclamation Project Withdrawal

By virtue of the authority contained in section 3 of the Act of June 17, 1902, 32 Stat. 388, as amended and supplemented, 43 U.S.C. section 416 (1964), it is ordered as follows:

1. The departmental order dated January 9, 1919, withdrawing lands for the Bruneau Project, is hereby revoked so far as it affects following described land:

BOISE MERIDIAN

T. 10 S., R. 12 E.,
Sec. 8, SW¼SE¼.

The area described contains 40 acres in Owyhee County.

The land is located approximately 11 miles west of Castleford, Idaho. Surface is rolling, soils are fine sandy loams, elevation is approximately 4,080 feet. Vegetation is sagebrush, tumbleweed, and native grasses.

2. At 10 a.m. on October 22, 1970, the land shall be open to operation of the public land laws generally,, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on October 22, 1970, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The land will be open to location under the United States mining laws at

10 a.m. on October 22, 1970. The land has been and continues to be open to application and offers under the mineral leasing laws.

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

HARRISON LOESCH,
Assistant Secretary of the Interior.

SEPTEMBER 16, 1970.

[F.R. Doc. 70-12616; Filed, Sept. 22, 1970; 8:47 a.m.]

[Public Land Order 4898]

[Oregon 5590 (Wash.)]

WASHINGTON

Partial Revocation of Reclamation Project Withdrawal

By virtue of the authority contained in section 3 of the Act of June 17, 1902, 32 Stat. 388, as amended and supplemented, 43 U.S.C. section 416 (1964), it is ordered as follows:

1. The Departmental Orders of July 27, 1904, July 27, 1905, and September 9, 1909, and Executive Order No. 1032 of February 25, 1909, withdrawing lands for the Okanogan Project, is hereby revoked so far as it affects the following described land:

WILLAMETTE MERIDIAN

T. 35 N., R. 24 E.,
Sec. 13, S½N½NE¼, NE¼NW¼.
T. 35 N., R. 25 E.,
Sec. 18, lot 4, SE¼SW¼, E½SE¼SE¼;
Sec. 20, NW¼NW¼;
Sec. 29, lots 2, 3, 4, and W½NW¼.

The area described aggregates 377.39 acres in Okanogan County.

The land is valuable for forage production and recreation use.

2. At 10 a.m. on October 22, 1970, the land shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on October 22, 1970, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The land will be open to location under the United States mining laws at 10 a.m. on October 22, 1970. It has been and continues to be open to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the Chief, Division of Lands and Minerals Program Management and Land Office, Bureau of Land Management, Portland, Oreg.

HARRISON LOESCH,
Assistant Secretary of the Interior.

SEPTEMBER 16, 1970.

[F.R. Doc. 70-12617; Filed, Sept. 22, 1970; 8:47 a.m.]

[Public Land Order 4899]

[Sacramento 2190]

CALIFORNIA

Addition to National Forest

By virtue of the authority vested in the President by section 24 of the Act of March 3, 1891, 26 Stat. 1103, 16 U.S.C. section 471 (1964), and section 1 of the Act of June 4, 1897, 30 Stat. 34, 36, 16 U.S.C. section 473 (1964), and pursuant to the Acts of February 20, 1925, 43 Stat. 952, and June 22, 1938, 52 Stat. 838, and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

The following described lands are hereby added to and made part of the Toiyabe National Forest (formerly the Tahoe National Forest), subject to valid existing rights and hereafter shall be subject to all laws and regulations applicable thereto, and the boundaries of said forest are extended accordingly:

MOUNT DIABLO MERIDIAN

T. 18 N., R. 18 E.,
Sec. 7, lot 13;
Sec. 19, lots 11 and 12.
T. 19 N., R. 18 E.,
Sec. 6, lots 2, 3, 4, and 5 in N½, S½ lot 6 in N½, N½ lot 2 in S½, lot 3 in S½, S½ lot 4 in S½, S½ lot 5 in S½, lot 6 in S½, lots 8, 9, 10;
Sec. 18, lots 4, 5, and 6 in N½, and lot 6 in S½;
Sec. 30, N½ lot 2 in S½, N½ lot 4 in S½, S½ lot 6 in S½, and lot 8 in S½;
Sec. 31, lot 8 and S½ lot 2 in N½.
T. 20 N., R. 18 E.,
Sec. 6, lots 1 and 4, S½ lot 7, S½ lot 8, lots 11, 12, and 14 through 17, incl.;
Sec. 18, lots 16 and 17;
Sec. 30, lots 1, 2, and 3, and N½ lot 6.

The areas described aggregate 1,862 acres in Sierra and Nevada Counties.

The lands described above are in the category of lands in the areas authorized to be transferred to the Tahoe National Forest by the Acts of February 20, 1925 and June 22, 1938, supra, which was the designation of the areas at the time the acts were approved. By Public Land Order No. 306 of December 18, 1945, these areas were redesignated as the Toiyabe National Forest.

HARRISON LOESCH,
Assistant Secretary of the Interior.

SEPTEMBER 16, 1970.

[F.R. Doc. 70-12618; Filed, Sept. 22, 1970; 8:48 a.m.]

[Public Land Order 4900]

[Idaho 3527]

IDAHO

Revocation of Administrative Site

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. The Executive Order No. 1619 of October 2, 1912, withdrawing public lands for the Sublunary Administrative Site is hereby revoked so far as it affects the following lands:

BOISE MERIDIAN

T. 56 N., R. 2 E.,
Sec. 26, SW¼SE¼.

The area described contains 40 acres in Bonner County.

The land is located about 1¼ miles northeast of Clark Fork, Idaho. The topography is fairly steep. Ground cover is mostly young timber with a scattering of larger trees and some open areas.

2. At 10 a.m. on October 22, 1970, the land shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on October 22, 1970, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The land will be open to location for nonmetalliferous minerals at 10 a.m. on October 22, 1970. It has been and continues to be open to applications and offers under the mineral leasing laws, and to location under the U.S. mining laws for metalliferous minerals.

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

HARRISON LOESCH,
Assistant Secretary of the Interior.

SEPTEMBER 16, 1970.

[F.R. Doc. 70-12619; Filed, Sept. 22, 1970; 8:48 a.m.]

[Public Land Order 4901]

[Colorado 9972, 11197]

COLORADO

Partial Revocation of National Forest Administrative Site Withdrawals

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. The departmental order of April 29, 1909, withdrawing public domain land for an administrative site, is hereby revoked so far as it affects the following described lands:

[C-9972]

SIXTH PRINCIPAL MERIDIAN

TROUT CREEK ADMINISTRATIVE SITE

T. 9 S., R. 76 W.,
Sec. 6, lot 5, SE¼NW¼.

The areas described aggregate 75.16 acres in Park County. The above described lands have been patented.

2. Public Land Order No. 2302 of March 14, 1961, withdrawing national forest lands for picnic grounds, campgrounds, and administrative sites is hereby revoked so far as it affects the following described lands:

[C–11197]

ARAPAHO NATIONAL FOREST

SIXTH PRINCIPAL MERIDIAN

Horseshoe Administrative Site (Addition)

T. 2 S., R. 78 W.,
A tract of land in secs. 3 and 10; beginning at Corner No. 0, which is identical with the south quarter corner of sec. 34, T. 1 S., R. 78 W.

From Corner No. 0, by metes and bounds, S. 70 chains to Corner No. 1; W. 20 chains to Corner No. 2; N. 40 chains to Corner No. 3; N. 20° W., 25.16 chains to Corner No. 4; N. 53° E., 10.81 chains to Corner No. 5; E. 20 chains to Corner No. 0, the place of beginning.

The area described aggregates approximately 153 acres in Grand County.

3. That portion of the lands described in paragraph 2 above which is embraced in Exchange Survey No. 375 as shown on the official plat of survey for Exchange Survey No. 375 accepted June 9, 1969, and officially filed in the Colorado Land Office on July 31, 1969, shall immediately become available for consummation of a pending Forest Service exchange. At 10 a.m. on October 22, 1970, the national forest lands described in paragraph 2 above, exclusive of the lands embraced in Exchange Survey No. 375, shall be open to such forms of disposal as may by law be made of national forest lands.

HARRISON LOESCH,
Assistant Secretary of the Interior.

SEPTEMBER 16, 1970.

[F.R. Doc. 70–12620; Filed, Sept. 22, 1970; 8:48 a.m.]

[Public Land Order 4902]

[Idaho 04411, 015849, 2205]

IDAHO

Modifying and Partially Revoking Public Land Order No. 1027 of November 2, 1954; Withdrawing Additional Public Lands for Use of the Department of the Air Force in Connection With the Saylor Creek Air Force Range

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

[Idaho 04411]

1. Paragraph 4 of Public Land Order No. 1027 of November 2, 1954, as amended by Public Land Order No. 3192 of August 2, 1963, withdrawing public lands for use by the Department of the Air Force for the Saylor Creek Bombing and Gunnery Range, now known as the Saylor Creek Air Force Range, is hereby amended to read:

(4) Grazing use of the withdrawn lands shall be administered by the Bureau of Land Management. No public use of any type will be allowed inside the fenced exclusive-use area within the lands described below.

SAYLOR CREEK AIR FORCE RANGE

BOISE MERIDIAN

T. 7 S., R. 7 E.,
Sec. 25, S½S½;
Sec. 26, S½S½;
Sec. 34, E½, E½NW¼, NE¼SW¼;
Sec. 35.
T. 7 S., R 8 E.,
Sec. 30, lot 4, SE¼SW¼, S½SE¼;
Sec. 31;
Sec. 32, W½NE¼, W½, NW¼SE¼.
T. 8 S., R. 7 E.,
Secs. 1 and 2;
Sec. 3, lot 1, SE¼NE¼;
Secs. 11, 12, 13, 14, 23, 24, 25, and 26.
T. 8 S., R. 8 E.,
Sec. 5, lot 4, SW¼NW¼;
Secs. 6, 7, 18, 19, and 30.

The area described aggregates 12,199.57 acres in Owyhee County.

Grazing use shall be permitted on the remainder of the area, withdrawn by Public Land Order No. 1027, as amended, at the discretion of the official of the Bureau of Land Management in charge for 45 days annually on the area northeasterly of the Clover-Three Creek Road during the period of March 1 to June 1 each year and for 60 days annually on the area southwesterly of the Clover-Three Creek Road during the period March 1 through June 15 during which periods no use of the lands for aerial gunnery shall be permitted: *Provided*, That in addition the Air Force officer in charge may authorize the Bureau of Land Management to permit grazing use earlier than March 1 or later than June 1, or June 15, on all or a portion of the respective withdrawn areas except the fenced area, if such use will not interfere with the military use of such lands.

[Idaho 015849]

2. Public Land Order No. 1027 of November 2, 1954, as amended, is hereby revoked so far as it affects the following described lands:

BOISE MERIDIAN

T. 8 S., R. 7 E.,
Sec. 6, E½, S½NW¼, SW¼;
Secs. 7, 18, 19, 30, and 31.
T. 9 S., R. 7 E.,
Secs. 6, 7, and 18.

The area described aggregates 5,496.69 acres in Owyhee County.

3. At 10 a.m. on October 22, 1970, the lands described in paragraph 2 shall be open to operation of the public land laws generally, including location and entry under the U.S. mining laws, and to leasing under the mineral leasing laws, subject to valid existing rights, the provisions of existing withdrawals, classifications, and the requirements of the applicable law.

These lands are located in central Owyhee County, in southwestern Idaho, the topography of which ranges from level to extremely rough and is broken by the Bruneau Canyon. Inquiries concerning these lands should be addressed to the Manager, Land Office, Bureau of Land Management, Boise, Idaho.

[Idaho 2205]

4. Subject to valid existing rights, the following described lands are hereby withdrawn except as hereinafter provided, from all forms of appropriation under the public land laws, including the mining laws, and from leasing under the mineral leasing laws, for use by the Air Force in connection with the Saylor Creek Air Force Range:

BOISE MERIDIAN

T. 9 S., R. 7 E.,
Sec. 24, E½;
Sec. 25, E½.
T. 9 S., R. 8 E.,
Sec. 19;
Sec. 20, W½;
Sec 29, W½;
Secs. 30 and 31;
Sec. 32, W½.

The area described aggregates 3,470.28 acres in Owyhee County.

The use of the lands by the Department of the Air Force shall be subject to the following conditions:

(1) The Department of the Air Force shall take all reasonable precautions to prevent and suppress brush and range fires occurring within the withdrawn lands during the period of military use, or outside such lands resulting from military use, and to prevent the pollution of waters on or in the vicinity of the withdrawn lands. The Department of Air Force may enter into an agreement with the Bureau of Land Management to provide for a transfer of funds for the suppression of range fires by the Bureau of Land Management.

(2) Authorized employees of the Department of the Interior and other Federal or State employees shall be permitted by the Department of the Air Force to enter the withdrawn lands on official business upon obtaining proper clearance from the Commanding Officer, Mountain Home Air Force Base, or other appropriate Air Force officer in charge.

(3) The Department of the Air Force shall not enclose roads or trails commonly in public use except at such times as it may be necessary to do so in the interests of safety or national security in the discretion of the Air Force officer in charge.

(4) Grazing use of the withdrawn lands shall be administered by the Bureau of Land Management. Grazing use shall be permitted at the discretion of the official of the Bureau of Land Management in charge for 60 days during the period March 1 to June 15 each year during which season no use of the lands for aerial gunnery shall be permitted: *Provided*, That the Air Force officer in charge may authorize the Bureau of Land Management to permit grazing use earlier than March 1 or later than June 15 in all or a portion of the withdrawn lands if such use will not interfere with the military use of such lands.

(5) The Department of the Air Force, not later than February 28 each year, shall destroy any unexploded bombs or other munitions left on the area.

(6) The Department of the Air Force shall adequately post the withdrawn lands annually, specifying the dates closed for public use and the dates open to public use.

(7) The Department of the Air Force shall exercise precaution to prevent the destruction of range resources and to provide for reseeding or such other rehabilitation work as may be necessary on the withdrawn lands or public lands adjacent thereto if such lands are damaged by military use. Such rehabilitation shall be accomplished under cooperative agreement between the Department of the Air Force and the Bureau of Land Management.

(8) The Department of the Air Force shall repair, restore, or replace existing or future range improvements upon the withdrawn lands which are damaged or demolished by military operations. Such rehabilitation shall be accomplished under cooperative agreement between the Department of the Air Force and the Bureau of Land Management.

Under the provision of this order, a total of approximately 101,440 acres of public lands withdrawn for the Saylor Creek Air Force Range will be available for grazing.

HARRISON LOESCH,
Assistant Secretary of the Interior.

SEPTEMBER 16, 1970.

[F.R. Doc. 70-12621; Filed, Sept. 22, 1970; 8:48 a.m.]

[Public Land Order 4903]

[Anchorage 063258, 063984, 5567]

ALASKA

Public Land Orders No. 4575 and No. 4682 Amended

Public Land Order No. 4575 of January 17, 1969, appearing in 34 F.R. 1441 as F.R. Doc. 69-1221, in the issue of January 30, 1969, and Public Land Order No. 4682 of August 28, 1969, appearing in 34 F.R. 14077 as F.R. Doc. 69-10585, in the issue of September 5, 1969, so far as they identify the land descriptions in the Cold Bay Area, are hereby amended to delete as surplusage that portion of the descriptions which reads "a point marked USED M-7 in a brass shell case set in concrete, at approximate latitude 55°12'36.96" N., and approximate longitude 162°42'52.93" W., which point is approximately 90 feet south of mean high tide of Cold Bay; thence N. 48°53' W., approximately 1,092 feet to".

The descriptions and status of the lands involved in Public Land Orders Nos. 4575 and 4682 are not otherwise changed by this order.

HARRISON LOESCH,
Assistant Secretary of the Interior.

SEPTEMBER 16, 1970.

[F.R. Doc. 70-12622; Filed, Sept. 22, 1970; 8:48 a.m.]

[Public Land Order 4904]

[Montana 11647 (Minn.)]

MINNESOTA

Powersite Restoration No. 698; Partial Revocation of Powersite Reserve No. 148

By virtue of the authority contained in section 24 of the Act of June 10, 1920, 41 Stat. 1075, as amended, 16 U.S.C. § 818 (1964), and pursuant to the determination of the Federal Power Commission in DA-12-Minnesota, it is ordered as follows:

Departmental order of July 29, 1910, creating Powersite Reserve No. 148, is hereby revoked so far as it affects the following described lands:

SUPERIOR NATIONAL FOREST
FOURTH PRINCIPAL MERIDIAN

T. 61 N., R. 12 W.,
Sec. 25, SW¼SW¼.

The area described contains 40 acres in St. Louis County.

At 10 a.m. on October 22, 1970, the land shall be open to such forms of disposal as may by law be made of national forest lands.

HARRISON LOESCH,
Assistant Secretary of the Interior.

SEPTEMBER 16, 1970.

[F.R. Doc. 70-12623; Filed, Sept. 22, 1970; 8:48 a.m.]

[Public Land Order 4905]

[Arizona 017536]

ARIZONA

Partial Revocation and Modification of Public Land Order No. 1810

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Public Land Order No. 1810 of February 27, 1959, withdrawing national forest lands as recreation areas, an administrative site and a roadside zone, is hereby revoked so far as it affects the following described areas:

COCONINO NATIONAL FOREST

GILA AND SALT RIVER MERIDIAN

Forest Highway No. 10, Roadside Zone

A strip of land 300 feet on each side of the centerline of Forest Highway No. 10 through national forest lands in the following legal subdivisions:

T. 13 N., R. 9 E.,
Sec. 27, SE¼NW¼, NE¼SW¼, S½SW¼;
Sec. 33, SW¼SW¼, E½SW¼, NW¼SE¼, S½NE¼, NE¼NE¼;
Sec. 34, NW¼NW¼.

The areas described aggregate approximately 78 acres in Coconino County.

2. Public Land Order No. 1810 of February 27, 1959, is modified to the extent necessary to open the lands to all forms of appropriation under the public land laws applicable to national forest lands, except under the United States mining laws, so far as it affects the following described lands:

COCONINO NATIONAL FOREST

GILA AND SALT RIVER MERIDIAN

Forest Highway No. 10, Roadside Zone

A strip of land 300 feet on each side of the centerline of Forest Highway No. 10 through national forest lands in the following legal subdivisions:

T. 12 N., R. 9 E. (partially surveyed),
Sec. 4, E½NW¼.
T. 13 N., R. 9 E.,
Sec. 27, NW¼SE¼.

The area described aggregates approximately 18 acres in Coconino County.

3. At 10 a.m. on October 22, 1970, the lands shall be open to such forms of disposition as may by law be made of national forest lands, except that the lands described in paragraph 2 shall not be open to appropriation under the mining laws.

HARRISON LOESCH,
Assistant Secretary of the Interior.

SEPTEMBER 16, 1970.

[F.R. Doc. 70-12624; Filed, Sept. 22, 1970; 8:48 a.m.]

[Public Land Order 4906]

[Arizona 4284]

ARIZONA

Modification of Stock Driveway Withdrawal

By virtue of the authority contained in section 10 of the Act of December 29, 1916, 39 Stat. 865, as amended, 43 U.S.C. section 300 (1964), and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

The Departmental Order of June 6, 1923, creating Stock Driveway Withdrawal No. 164, Arizona No. 6, as enlarged by Departmental Order of July 29, 1924, is hereby modified to the extent necessary to permit the location of a right of way under section 2477, U.S. Revised Statutes, 43 U.S.C. section 932, by the Maricopa County Highway Department, over the following described lands, as delineated on a map entitled "McKellips Road Project No. 812-10" on file with the Bureau of Land Management in Arizona 4284, for construction of a public road:

GILA AND SALT RIVER MERIDIAN

T. 1 N., R. 7 E.,
Sec. 3, the south 55 feet;
Sec. 4, the south 55 feet;
Sec. 8, the north 55 feet;
Sec. 9, the north 55 feet.

The areas described aggregate 29.32 acres in Maricopa County.

HARRISON LOESCH,
Assistant Secretary of the Interior.

SEPTEMBER 16, 1970.

[F.R. Doc. 70-12625; Filed, Sept. 22, 1970; 8:48 a.m.]

[Public Land Order 4907]

[Montana 12790]

MONTANA

Withdrawal for National Forest Recreation Areas and Administrative Sites

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described national forest lands are hereby withdrawn from appropriation under the mining laws (30 U.S.C., ch. 2), but not from leasing under the

mineral leasing laws, in aid of programs of the Department of Agriculture:

BITTERFOOT NATIONAL FOREST

PRINCIPAL MERIDIAN

Camp Creek Ranger Station

T. 1 N., R. 19 W.,
Sec. 21, E½SE¼NE¼SE¼, E½NW¼SE¼NE¼SE¼.

Trapper Creek Administrative Site

T. 2 N., R. 21 W.,
Sec. 26, W½NE¼SW¼NW¼, NW¼SW¼NW¼;
Sec. 27, E½NE¼NE¼, NE¼SE¼NE¼.

Black Bear Campground

T. 5 N., R. 19 W.,
Sec. 24, S½S½SE¼SW¼, SW¼SW¼SE¼, E½SW¼SE¼, W½SE¼SE¼;
Sec. 25, unsurveyed, but in that portion which when surveyed will probably be the N½NW¼, more particularly described as:
Beginning at the section corner common to sections 23, 24, 25, 26, T. 5 N., R. 19 W., P.M.M., Corner No. 1; thence due south 15 chains to a ¾" x 18" iron pin set in the ground for Corner No. 2; thence due east 20 chains to a ¾" x 18" iron pin set in the ground for Corner No. 3; thence due north 5 chains to a ¾" x 18" iron pin set in the ground for Corner No. 4; thence due east 15 chains to a ¾" x 18" iron pin set in the ground for Corner No. 5; thence due north 10 chains to a ¾" x 18" iron pin set in the ground for Corner No. 6; thence south 89°49' W., along the section line between sections 24 and 25, T. 5 N., R. 19 W., P.M.M., to Corner No. 1, the point of beginning.

Sleeping Child Picnic Ground

T. 4 N., R. 19 W.,
Sec. 7, W½SW¼NE¼SE¼, E½SE¼NW¼SE¼.

The areas described aggregate 166.25 acres in Ravalli County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license, or permit or governing the disposal of their mineral or vegetative resources other than under the mining laws.

HARRISON LOESCH,
Assistant Secretary of the Interior.

SEPTEMBER 16, 1970.

[F.R. Doc. 70-12626; Filed, Sept. 22, 1970; 8:48 a.m.]

[Public Land Order 4908]

[Wyoming 2935]

WYOMING

Powersite Cancellation No. 253; Partial Cancellation of Powersite Classification No. 345

By virtue of the authority contained in section 24 of the Act of June 10, 1920, 41 Stat. 1075, as amended, 16 U.S.C. § 818 (1964), and pursuant to the determination of the Federal Power Commission in DA-156-Wyoming, it is ordered as follows:

1. The departmental order of July 31, 1944, creating Powersite Classification No. 345, is hereby canceled so far as it affects the following described lands:

SIXTH PRINCIPAL MERIDIAN

T. 55 N., R. 94 W.,
Sec. 34, lot 5;
Sec. 35, lots 1 and 2, SW¼NW¼.

The areas described aggregate 139.18 acres in Big Horn County.

The lands are situated along the Big Horn River approximately 15 miles north of Greybull and lie between the Big Horn Canyon National Recreation Area and the proposed Sheep Mountain National Monument.

Vegetation in the area is primarily a saltbush association; soils are gravelly clay loams.

2. At 10 a.m. on October 22, 1970, the lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on October 22, 1970, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

The lands have been and continue to be open to applications and offers under the mineral leasing laws, and to location under the U.S. mining laws.

Inquiries concerning the lands should be addressed to the Manager, Land Office, Bureau of Land Management, Cheyenne, Wyo.

HARRISON LOESCH,
Assistant Secretary of the Interior.

SEPTEMBER 16, 1970.

[F.R. Doc. 70-12627; Filed, Sept. 22, 1970; 8:48 a.m.]

[Public Land Order 4909]

[Oregon 1609 (Wash.)]

WASHINGTON

Revocation of Executive Orders of July 13, 1892, and March 4, 1896

By virtue of the authority vested in the President, and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

The Executive Orders of July 13, 1892, and March 4, 1896, reserving lands for lighthouse purposes in the Sucia Islands are hereby revoked so far as they affect the following described lands:

WILLAMETTE MERIDIAN

T. 38 N., R. 1 W.,
Sec. 19, lot 1.
T. 38 N., R. 2 W.,
Sec. 24, lots 1 to 6, inclusive;
Sec. 25, lot 5;
Sec. 26, lots 5 and 10;
Sec. 27, lot 1;
Sec. 36, lot 1.

The areas described aggregate 128.55 acres in San Juan County.

The lands have been patented to the State of Washington under the Recreation and Public Purposes Act of June 14, 1926, 44 Stat. 471, as amended, 43 U.S.C. section 869 et seq. (1964).

HARRISON LOESCH,
Assistant Secretary of the Interior.

SEPTEMBER 16, 1970.

[F.R. Doc. 70-12628; Filed, Sept. 22, 1970; 8:48 a.m.]

[Public Land Order 4910]

[Oregon 6160]

OREGON

Withdrawal for National Forest Recreation Area

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described national forest land is hereby withdrawn from appropriation under the mining laws (30 U.S.C., ch. 2), but not from leasing under the mineral leasing laws, in aid of programs of the Department of Agriculture:

MT. HOOD NATIONAL FOREST

WILLAMETTE MERIDIAN

Ripplebrook Campground

T. 6 S., R. 6 E.,
Sec. 2, S½ of lot 2 and those parts of NW¼SW¼NE¼ and NE¼SE¼NW¼ north of Oak Grove Fork of Clackamas River and east of County Road No. 224.

The area described contains approximately 45 acres in Clackamas County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

HARRISON LOESCH,
Assistant Secretary of the Interior.

SEPTEMBER 16, 1970.

[F.R. Doc. 70-12629; Filed, Sept. 22, 1970; 8:48 a.m.]

Title 49—TRANSPORTATION

Chapter V—National Highway Safety Bureau, Department of Transportation

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Motor Vehicle Safety Standard No. 213; Child Seating Systems

RECONSIDERATION AND AMENDMENT OF STANDARD

Motor Vehicle Safety Standard No. 213, establishing requirements for child seating systems for use in passenger cars, multipurpose passenger vehicles, trucks, and buses, was issued on March 23, 1970 (35 F.R. 5120). Thereafter, pursuant to § 553.35 of the procedural rules (49 CFR

553.35, 35 F.R. 5119), petitions for reconsideration of the standard were filed by Chrysler Corp., General Motors Corp., American Motors, Bolt Beranek and Newman, Inc. (on behalf of Juvenile Products Manufacturers' Association), Hamill Manufacturing Co., Kiddie Kar-Go, Inc., and the Bobby-Mac Co., Inc. In addition, comments on the petitions were submitted by the Center for Auto Safety.

In response to information contained in several of the petitions, plus other available data, the Director of the National Highway Safety Bureau is changing certain requirements of the standard. In addition, the petitions raised certain issues which are considered to be appropriate for future rulemaking action because they indicate areas in which the standard may be improved. Therefore, the Director is today issuing a notice of proposed rule making, inviting public comment on those matters. The Director has declined to grant requested relief from other requirements of the standard.

1. Paragraph S3 of the standard defines a child seating system as "an item of motor vehicle equipment for seating and restraining a child being transported in a passenger car, multipurpose passenger vehicle, truck, or bus." For purposes of clarity, this definition is being revised to state "* * * for seating and restraining a child in a 'motor vehicle' ". This revision does not change the standard's requirements, as the particular vehicles to which the standard applies, enumerated in paragraph S2, remain the same.

At present the standard does not apply to devices that seat children in motor vehicles, but do not restrain them. General Motors has requested a change in the definition of "child seating system" that would expand the coverage of the standard to include all devices for seating children, thus eliminating the exception that currently exists for those devices which merely seat, but do not restrain. The change requested by General Motors is believed to have merit, and in the notice of proposed rulemaking issued concurrently with this amendment, the Director has proposed to expand the coverage of the standard to include all devices that are manufactured to seat children in motor vehicles. The Director agrees with General Motors that the interests of safety would be better served by precluding the manufacture of devices which, although designed to seat children in motor vehicles, do not provide necessary protection. The Director also wishes to make clear the scope of the present regulation. As presently defined, a child seating system includes devices for seating and restraining a child. The intent of the standard is to include any seating device that may lead a consumer to assume that it will offer some protection to a child placed in it, either by restraining the child with the vehicle restraint system, a restraint system incorporated into the device, or both. Therefore any seating device that provides restraint for a child, no matter how minimal or for what purpose, is a child seating system under the standard.

2. Paragraph S4.1(f) of the standard, as originally issued, required manufacturers of child seating systems to warn against use of the systems on vehicle seats that have hinged or folding seat backs but lack seat back latches to restrain the backs in the event of a crash. General Motors Corporation has pointed out that the mandatory statement did not warn against use of child seats on vehicle seats that hinge in their entirety and do not have restraining latches. The warning specified in paragraph S4.1(f) is revised to include a requirement for a warning against use of child seats on hinged vehicle seats that do not have seat latches. Paragraph S4.1.1, which contains an exception to the warning requirement, is changed to reflect the change in the required warning.

3. Both General Motors and Chrysler Corp. have asked for relief from the requirement, in paragraph S4.1(a), that the manufacturer's name be included on the label affixed to each child seating system. They argue that it is common marketing practice for vehicle manufacturers to purchase part and equipment items for resale under their own names and that, in view of the distributor's obligation to certify that those items conform to applicable Federal motor vehicle safety standards, no valid compliance purpose is served by requiring the manufacturer's name to appear on each child seating system. The objective of the requirement is twofold: First, to facilitate remedial action by the Bureau in the event noncompliance is discovered; and, second, to enable consumers to identify the products which are found to fall below the performance levels established by the standard or to contain safety-related defects. The Director has concluded that both of these objectives can be attained if the label contains the name of a person who accepts complete responsibility for the safe performance of the system. Therefore, paragraph S4.1(a) is revised to permit a distributor to place his name on the label, in place of the manufacturer's name, only if the distributor accepts responsibility for all duties and liabilities imposed on the manufacturer by the National Traffic and Motor Vehicle Safety Act (15 U.S.C. §1381–1426). It should be noted that the actual manufacturer retains the duties and liabilities imposed on him by the Act.

4. General Motors, American Motors, and Hamill Manufacturing Co. have asked for relief from paragraph S4.1(e)'s requirement that the manufacturer of a child seating system designate the makes and models of vehicles in which it can safely be used and the locations in those vehicles at which it is suitable for use. It was the intent of this provision to permit the designation to be stated in general terms. It would obviously be impracticable to require the label of a child seating system to contain a listing of many hundreds of vehicle makes and models. The petitions indicate that clarification of this provision is in order, and the paragraph has been revised to make it clear that a general description of the vehicles and locations is all that is required.

5. Paragraph S4.1(h) of the standard requires child seating system manufacturers to state on the required label that the child seat is for use "only by children capable of sitting upright by themselves", and to follow this statement with the recommended minimum and maximum height and weight of children who can safely occupy the seating system. General Motors has asked that manufacturers, where appropriate, be authorized to designate their products as safe for children "capable of sitting upright by themselves", rather than requiring them to specify the recommended minimum height and weight. The Bobby-Mac Co., however, has suggested that manufacturers whose child seats are designed for use by all ages of children, including those who cannot sit upright, should not be prohibited from recommending their seats for use with these children. The Director believes that the phrase "capable of sitting upright by themselves", used alone, lacks necessary specificity, and therefore denies General Motors' request. However, it has been determined that minimum child size can be adequately expressed by specifying only the child's weight, and the minimum height requirement has therefore been deleted.

With reference to the request of the Bobby-Mac Co., it has been concluded that child seating systems can be designed to accommodate children who are unable to sit upright by themselves and that in fact the original proposal permitted such a design. The phrase "capable of sitting upright by themselves" is therefore deleted as part of the labeling requirement. However, it may be necessary for a seating system designed to accommodate children not capable of sitting upright unaided to be designed so that the attitude of the child is adjustable to provide his back with support. If so, paragraph S4.2 requires the manufacturer to furnish instructions on how the adjustment is to be made. Further, both the impact protection requirements of paragraph S4.10 and the performance requirements of paragraph S4.11 must be met under these instructions. Therefore, in those cases where a seating system can adjust the child's position, it must meet the impact protection and performance requirements at each recommended adjustment position. Language clarifying this requirement is being added to paragraph S4.11.

6. Kiddie Kar-Go, Inc., has asked for modification of paragraph S4.4(a) of the standard, which precludes child seating systems from having bails, or similar devices, that hook over the backs of vehicle seats. It argues that its child seat, which is positioned and held in place partly through the use of bails or similar devices, has the advantage of appearing to be something other than a system to

provide crash protection. Consequently, it is argued, the seat does not present certain specified psychological barriers to its installation and use to the same extent that a "crash protection" seat does. There is, however, no evidence in the Director's possession, and none has been presented by the petitioner, to indicate that the psychological factors which the petitioner mentions enter into the decision to purchase, install, and use a child seat. On the other hand, it is known that a seat back to which a child seat is attached either with straps or bails that hook over the back can thereby be subjected to greater forces than it can withstand in a crash situation. In a forward collision, the additional load on the seat back resulting from attachment of a child seat would, in many instances, cause the seat back to fail. The resultant forces on an infant occupant of the child seat could produce serious personal injury. Therefore, the request for amendment of paragraph S4.4(a) is denied.

7. In response to petitions from Hamill Manufacturing Co. and American Motors, paragraph S4.6 of the standard, dealing with head restraint capability, has been amended to vary the mandatory minimum height of the head restraint (either the back of the child seating system itself or the back of the vehicle seat, including its head restraint, in which the system is installed) with the maximum weight of the child for which the child seating system is designed. Also, these heights are to be measured along a line parallel to the rear surface of the vehicle seat back. The minimum height of a head restraint for the largest child weight category has been set at 20 inches, a height determined sufficent to provide adequate protection.

8. General Motors has requested that the entire head restraint paragraph be deleted on the basis that paragraph S4.6 of the standard constitutes an inappropriate and an unduly restrictive design requirement. General Motors also says that the requirement fails to contribute to motor vehicle safety in light of the lack of any performance requirements for the head restraint. The request is denied. Safety research has made it clear that head restraints can significantly reduce the frequency and severity of neck injuries in rear-end collisions. While these studies dealt primarily with protection of adult occupants, it would seem even more important to afford small children the type of protection that adults derive from the head retraints required by Motor Vehicle Safety Standard No. 202. A child's head is proportionately larger than an adult's, and the neck of a child is also weaker than an adult neck. The neck vertebrae of children are immature models of adult vertebrae. When the relatively heavy head of a child is suddenly rotated rearward, his vertebrae are unable to sustain the resultant forces. The result is likely to be serious injury to the arteries supplying blood to the head, to nerves, to the vertebrae themselves, or to the spinal cord. It is true that the standard does not set out detailed performance standards for the head restraint protection which child seats must provide. Instead, it requires manufacturers to make a good faith effort to provide restraint against the forces that act on a child's head during rearward impact of the vehicle. The absence of specified performance goals is caused by a lack of information on which to base a specific criterion. In the circumstances, it is preferable to retain the existing requirements until the standard can be improved by the addition of more specific, restrictive, and elaborate performance requirements for child seat head restraints. To accomplish this purpose, the Director has included in the notice of proposed rule making issued today proposals concerning improved performance requirements for head restraints of child seating systems.

9. The wording of paragraph S4.8 has been changed to state more precisely the requirement that metal components of child seating systems that directly restrain the child must meet the corrosion resistance requirements of similar components of seat belt assemblies as specified in Motor Vehicle Safety Standard No. 209.

10. General Motors and Bolt Beranek and Newman both requested reconsideration of the impact protection requirements in paragraph S4.10 of the standard. General Motors stated that the requirement for material covering rigid components that a child may contact upon impact specifies only that the material be deformable and either nonrecovery or slow-recovery energy-absorbing material. General Motors requested deletion of this requirement pending development of more objective, performance-related criteria. General Motors also objects to the requirement on the ground that the absence of a specified demonstration procedure makes it difficult for manufacturers to ascertain with certainty whether their child seating systems comply. It is recognized that the impact protection requirements are minimal ones. As indicated in the preamble to the rule (35 F.R. 5121), there does not presently exist enough information upon which to base precise performance criteria relating to impact protection. It does not follow, however, that the standard should not include impact protection requirements. A young child, whose head and body are not fully developed, has a low resistance to impact trauma. His skull and thoracic cage are both highly elastic and cannot withstand highly concentrated forces. It is clear that children have a vital need for protection against impacts with the type of sharp edges or small round bars that are found in many child seating systems on the market today. The Director has determined that child seat manufacturers should be able to make a reasonable, good-faith determination of the areas on their systems that may be contacted by a child's torso or head by using a doll, anthropomorphic dummy or other similar device to simulate the dimensions and sizes of the children for which their systems are recommended. In the circumstances, the Director has concluded that it would be unreasonable to deny children the impact protection that compliance with the standard's minimal requirements will afford. It is agreed, however, that more precise requirements would further enhance motor vehicle safety. Consequently, the notice of proposed rule making issued today proposes revisions of the impact protection requirements that would add more exact performance requirements and test procedures to paragraph S4.10.

Paragraph S4.10.1 provides that the rigid components of a child seating system that may be contacted by the head or torso under various impacts must have a minimum radius of three-quarters of an inch. Bolt Beranek and Newman stated in their petition that this requirement could be interpreted to apply before the component is covered with energy absorbing material, and that if this were the case, the requirement would pose an undue burden on the manufacturer. They requested, therefore, that the minimum radius of those components be specified after they are covered with energy-absorbing material. Such a requirement, however, would not preclude use of a rigid member having a sharp edge as long as the outer material complied with specifications for minimum radius and energy-absorbing qualities. In view of the possibility that this combination of materials could result in serious injury to a child who impacts them, it was decided that the minimum radius of curvature should continue to apply to the underlying component, but that the minimum radius could be reduced from three-quarters of an inch to one-quarter of an inch.

11. The performance requirements and demonstration procedures in paragraphs S4.11 and S5 of the standard prescribe a test in which a torso block is subjected to a static load while placed in a child seating system installed on a vehicle seat in accordance with the recommendations of the child seat manufacturer. Under the original requirements, the reference point in the torso block must not move forward more than 10 inches when the block is subjected to a forward load of 1,600 pounds and must sustain a rearward load of 800 pounds. In response to petitions for reconsideration from General Motors, American Motors, and Bolt Beranek and Newman, the performance criteria have been modified as follows:

(a) The single force requirement for all seats has been retained; however, the 1,600-pound forward force has been reduced to 1,000 pounds, and the 800-pound rearward force has been reduced to 500 pounds. These reductions make the requirements more nearly consistent with the forces created in a 30-m.p.h. barrier collision.

General Motors had stated its belief that a single load performance requirement for all seats, regardless of the maximum child size recommended for use in the seat, was inappropriate. It had further requested that the force of 1,600 pounds, reflecting a 40g force applied to a 40-pound child, be changed to a 20g force that more nearly represented the

forces generated in a 30-m.p.h. barrier collision test.

(b) The allowable forward horizontal movement of the reference point has been increased from 10 to 12 inches. This change takes into account recent testing, showing that deflection of the vehicle seat permits a substantial amount of forward movement. There is nothing the child seating manufacturer can do by way of improved design or construction to avoid some forward movement resulting from vehicle seat deflection. Consequently, the standard is amended to allow for unavoidable deflection of the vehicle seat by increasing the maximum permissible movement of the reference point to 12 inches.

(c) In response to a request by General Motors and Bolt Beranek and Newman, the standard is amended by inserting dimensional measurements for locating the test device reference point. This change should avoid potential confusion and facilitate testing of child seating systems.

12. General Motors has also asked that the requirement that the maximum static-test load be sustained for a period of 10 seconds be eliminated. It states that the 10-second period is unrealistic and unrelated to the split-second duration of loading in actual impact situations. It therefore requests that a load application rate of two to four inches per minute be substituted for the requirement that the load be sustained for 10 seconds. For reasons set forth below, the Director has determined that the demonstration procedure in the standard should remain a static test. In a static test of a child seating system, the capability of the system to sustain a specified load for a finite time period is considered more important than the load application rate. The requirement that the load be sustained for 10 seconds prevents removal of the load at the instant when the maximum specified value is attained. It also tends to produce more repeatable results from one test to another and from one test laboratory to another. Hence, the request is denied.

13. The Director also denies a request for modification of the standard to permit child seating systems to be tested, for purposes of "demonstrating" compliance, on a standard or simulated vehicle seat rather than on any vehicle with which they may be used. Manufacturers may, of course, use their own judgment as to how they test their products. But manufacturers are clearly in a better position than consumers to determine which vehicle seats will accept their child seating systems, and it is therefore appropriate for manufacturers to bear the legal and technical burden of determining and stating the range of suitability of their systems. To do this, they must ascertain by some appropriate means that their systems will perform as required when used in any vehicle for which they are recommended.

14. General Motors and American Motors have asked for approval of an alternate test device in place of the specified torso block. General Motors has also requested that alternate demonstration procedures, such as dynamic tests, be permitted. As stated above, the law does not require a manufacturer to use the test or test device specified in a standard, but allows him to use his judgment in designing a test program to ensure that his products conform to the standard. Manufacturers are encouraged to use the best test procedures that they can devise, as long as these procedures give an accurate indication of whether their products meet the requirements of the standard. No rulemaking action in this regard is called for.

In consideration of the foregoing, Motor Vehicle Safety Standard No. 213 in § 571.21 of Title 49, Code of Federal Regulations, is revised to read as set forth below.

Effective date. The Bureau has determined that because of the significance of the issues raised by the petitions, and because many manufacturers have been unable to commit their resources to comply with requirements they knew to be under reconsideration and subject to change, additional time should be given to comply with the standard. The effective date of the standard is, therefore, extended to April 1, 1971.

(Secs. 103, 112, 114, and 119 of the National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1392, 1401, 1403, 1407, and the delegation of authority at 49 CFR 1.51; 35 F.R. 4955)

Issued on September 17, 1970.

DOUGLAS W. TOMS,
Director,
National Highway Safety Bureau.

MOTOR VEHICLE SAFETY STANDARD NO. 213

CHILD SEATING SYSTEMS

S1. *Purpose and scope.* This standard specifies requirements for child seating systems to minimize the likelihood of death and injury to children in vehicle crashes or sudden stops by ejection from the vehicle, contact with the vehicle interior, or contact with a child seating system.

S2. *Application.* This standard applies to child seating systems for use in passenger cars, multipurpose passenger vehicles, trucks and buses. This standard does not apply to Type 3 seat belt assemblies, as defined in Federal Motor Vehicle Safety Standard No. 209, or to systems for use only by recumbent or semirecumbent children.

S3. *Definition.* "Child seating system" means an item of motor vehicle equipment for seating and restraining a child being transported in a motor vehicle.

S4. *Requirements.*

S4.1 *Labeling.* Each child seating system shall have a label permanently affixed to it. The label shall contain the following information in the English language in letters and numerals not less than $\frac{3}{32}$-inch high:

(a) The manufacturer's name. However, a distributor's name may be placed on the label in place of the manufacturer's name if the distributor assumes responsibility for all duties and liabilities imposed on the manufacturer by the National Traffic and Motor Vehicle Safety Act with respect to the system.

(b) Model number or name.

(c) Month and year of manufacture.

(d) Place of manufacture (city and State or foreign country). However, if the label contains the distributor's name in place of the name of the manufacturer, the city and State or foreign country of the distributor's principal offices shall appear on the label.

(e) A statement describing in general terms both the types of motor vehicles and the designated seating positions in those vehicles in which the system is either recommended or not recommended for use. The following, either stated separately or in combination, are examples of acceptable statements:

(1) "Recommended for use only on bench seats of passenger cars manufactured after January 1, 1968, by the ---------- Motor Company."

(2) "Recommended for use only on seats that have head restraints on (make or model designation(s)) passenger cars manufactured after January 1, 1969."

(3) "Not recommended for use in trucks and buses."

(f) Except as provided in S4.1.1, the following statement: "Not for use on hinged or folding vehicle seats or seat backs unless the seat or seat back is equipped with a latch."

(g) Unless the system is a rearward-facing child seating system, the following statement: "For use only on forward-facing vehicle seats."

(h) The following statement, inserting in the blank spaces the manufacturer's recommendations of the maximum height and the minimum and maximum weight of children who can safely occupy the system: "For use only by children who weigh between ------ and ------ pounds and whose height is ------ inches or less."

S4.1.1 *Exemption.* A part of the warning required by S4.1(f) relating to use of a child seating system on a hinged or folding vehicle seat or on a vehicle seat having a hinged or folding back, or on both, may be omitted in the following circumstances:

(a) The part of the warning that relates to vehicle seats may be omitted if the child seating system includes a component to restrain a hinged or folding vehicle seat and if, when the system and the component are both installed in the seat in accordance with the recommendation required by S4.1(e) and the instructions required by S4.2, the component will not fail when a forward longitudinal force equal to 20 times the weight of the vehicle seat is applied through the seat's center of gravity and maintained for 10 seconds.

(b) The part of the warning that relates to seat backs may be omitted if the child seating system includes a component to restrain the hinged or folding seat back and if, when the system and the component are both installed in the vehicle seat in accordance with the recommendation required by S4.1(e) and the instructions required by S4.2, the component will not fail when a forward longitudinal force equal to 20 times the

weight of the vehicle seat back is applied through the back's center of gravity and maintained for 10 seconds.

(c) The entire warning may be omitted if the child seating system includes the components for restraining the seat and seat back specified in (a) and (b).

S4.2 *Installation instructions.* Each child seating system shall be accompanied by an instruction sheet, providing a step-by-step procedure (which may include diagrams) for installing the system in the vehicles in which it is recommended for use in accordance with S4.1 (e), securing the system with a Type 1 or Type 2 seat belt assembly, positioning a child in the system, and adjusting the system to fit the child.

S4.3 *Adjustment.* The components of each child seating system that directly restrain the child shall be adjustable to fit any child whose weight and height are within the ranges recommended in accordance with S4.1(h) and who is positioned in the system in accordance with the instructions required by S4.2.

S4.4 *Attachment.* Each child seating system shall be designed and constructed so that—

(a) The system has no provision for attachment to a vehicle seat back other than by means of a component that is inserted between the vehicle seat back and the vehicle seat cushion; and

(b) When installed in accordance with the instructions required by S4.2, a system installed on a forward-facing vehicle seat shall be restrained against forward movement, and a system installed on a rearward-facing vehicle seat shall be restrained against rearward movement, by a Type 1 or Type 2 seat belt assembly as defined in Federal Motor Vehicle Safety Standard No. 209.

S4.5 *Distribution of restraint forces.*

S4.5.1 *Forward-facing systems.* When a forward-facing child seating system is installed in a vehicle and a child is positioned in the system in accordance with the instructions required by S4.2, components of the child seating system and the vehicle's seat belt assemblies that apply restraining forces directly to the child shall, during forward movement of the child relative to the vehicle in which the system is installed, distribute those forces on both the pelvis and thorax of the child. Restraint forces may also be distributed over other areas of the child's body as long as both the pelvis and thorax are restrained.

S4.5.2 *Rearward-facing systems.* When a rearward-facing child seating system is installed in a vehicle and a child is positioned in the system in accordance with the instructions required by S4.2, the components of the child seating system and the vehicle's seat belt assemblies that apply restraining forces directly to the child shall—

(a) During forward movement of the child relative to the vehicle in which the system is installed, distribute those forces on both the back of the child's torso and the back of the child's head; and

(b) During rearward movement of the child relative to the vehicle in which the system is installed, distribute those forces on both the pelvis and thorax of the child. Restraint forces may also be distributed over other areas of the child's body as long as both the back of the torso and head are restrained during forward movement and both the pelvis and thorax are restrained during rearward movement.

S4.6 *Head restraint.*

S4.6.1 Except as provided in S4.6.2, each forward-facing child seating system shall have a seat back. The height of the seat back, measured as the straight-line distance between the highest point at the lateral center of the seat back and the lowest point at the lateral center of the seating surface, shall be as follows:

If the maximum weight of children for whom the system is recommended is:	The height of the seat back shall be at least:
20 pounds or less	15 inches.
More than 20 pounds but not more than 25 pounds.	16.2 inches.
More than 25 pounds but not more than 30 pounds.	17.9 inches.
More than 30 pounds but not more than 35 pounds.	18.9 inches.
More than 35 pounds	20 inches.

S4.6.2 Subparagraph S4.6.1 does not apply to a child seating system if—

(a) In accordance with S4.1(e), the system is recommended for use only at designated seating positions in makes and models of vehicles at which the vehicle's seat back or head restraint limits rearward angular displacement of the child's head relative to the child's torso line; and

(b) When the system is installed in accordance with the instructions required by S4.2, the distance from the lowest point at the lateral center of the child seating surface to a horizontal plane tangent to the highest point of the vehicle seat back or head restraint in its highest adjustable position, at the lateral center of the designated seating position, measured on a line parallel to the rear surface of the vehicle seat back, is at least equal to the seat back height specified for the seating system in S4.6.1.

S4.7 *Webbing.* If a child seating system has webbing to distribute restraint forces as required by S4.5—

(a) The webbing that directly contacts the child's body shall have a minimum width of 1½ inches; and

(b) The webbing that sustains restraint forces shall meet the requirements for webbing in a Type 3 seat belt assembly specified in paragraph S4.2(b) through paragraph S4.2(h) of Federal Motor Vehicle Safety Standard No. 209.

S4.8 *Hardware.* Attachment hardware of each child seating system that sustains restraint forces shall meet the corrosion resistance requirements for attachment hardware of a seat belt assembly specified in paragraph S4.3(a) of Federal Motor Vehicle Safety Standard No. 209. Buckles, retractors, and metallic parts other than attachment hardware that sustain restraint forces shall meet the corrosion resistance requirements for buckles, retractors, and metallic parts other than attachment hardware of a seat belt assembly specified in paragraph S4.3(a) of Federal Motor Vehicle Safety Standard No. 209.

S4.9 *Release mechanism.* The mechanism for releasing components of a child seating system that directly restrain the child shall meet the requirements for the buckle of a Type 3 seat belt assembly specified in paragraph S4.3(d) of Federal Motor Vehicle Safety Standard No. 209.

S4.10 *Impact protection.*

S4.10.1 *Head.* Each rigid component of a child seating system that, during forward, right-side, left-side or rearward impact, may contact the head of a child within the weight and height range recommended in accordance with S4.1(h) who is positioned in the system in accordance with the instructions required by S4.2, shall—

(a) Have no corner or edge with a radius of less than one-quarter inch; and

(b) Except as provided in S4.10.3, be covered with deformable, nonrecovery, or slow-recovery energy absorbing material having a thickness of at least one-half inch.

S4.10.2 *Torso.* Except as provided in S4.10.3, each rigid component of a child seating system (except restraint belt buckles) that, during forward, right-side, or left-side impact, may contact the torso of a child within the weight and height range recommended in accordance with S4.1(h) shall comply with the requirements of S4.10.1.

S4.10.3 *Exception.* S4.10.1(b) does not apply to a rigid side of a child seating system if the contactable area of the side that is higher than the system's seating surface is at least 24 square inches.

S4.11 *Performance.*

S4.11.1 *All child seating systems.*

(a) When tested in accordance with S5.1 each child seating system shall—

(1) Retain the torso block in the system;

(2) Sustain a static load of 1,000 pounds in the forward direction; and

(3) Restrict forward horizontal movement of the torso block reference point to 12 inches or less.

(b) A child seating system in which the attitude of the child is adjustable pursuant to the instructions provided in accordance with paragraph S4.2 shall meet these requirements at each designed adjustment position.

S4.11.2 *Rearward-facing child seating systems.*

(a) When tested in accordance with S5.2, each rearward-facing child seating system shall—

(1) Retain the torso block in the system;

(2) Sustain a static load of 500 pounds in the rearward direction; and

(3) Restrict rearward horizontal movement of the torso block reference point to 12 inches or less.

(b) A child seating system in which the attitude of the child is adjustable pursuant to the instructions provided in accordance with paragraph S4.2 shall meet these requirements at each designed adjustment position.

S5. *Test procedures.*

S5.1 *All seating systems.* The child seating system shall be subjected to a static load, using the torso block shown in Figure 6 of Federal Motor Vehicle Safety Standard No. 209, as follows:

(a) Locate the torso block reference point, which is 2.9 inches above the bottom surface of the torso block and 2.1 inches forward of the back surface of the torso block.

(b) Install the system in accordance with the manufacturer's instructions required by S4.2 on a vehicle seat other than a seat on which the manufacturer does not recommend its installation in the recommendation required by S4.1(e).

(c) Position the torso block in the system in accordance with the manufacturer's instructions required by S4.2, and adjust the system in accordance with those instructions.

(d) Apply an increasing load to the torso block in a forward direction, not more than 15° and not less than 5° above the horizontal, until a load of 1,000 pounds is achieved. The intersection of the load application line and the back surface of the torso block, at the time that the force removes the slack from the load application system, shall not be more than 8 inches or less than 6 inches above the bottom surface of the torso block. Maintain the 1,000-pound load for 10 seconds.

(e) Measure the horizontal movement of the torso block reference point.

S5.2 *Rearward-facing child seating systems.* The rearward-facing child seating system shall be subjected to the test procedure specified in S5.1, except that—

(a) A load of 500 pounds shall be achieved; and

(b) The load shall be applied in a rearward direction.

[F.R. Doc. 70-12596; Filed, Sept. 22, 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

Wheeler National Wildlife Refuge, Ala.

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.

General conditions. Hunting shall be in accordance with applicable State regulations. Portions of the refuge which are open to hunting are designated by signs and/or delineated on maps. Maps are available at refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323.

Quail, rabbits, gray squirrels, racoons, and opossum may be hunted in accordance with the following special conditions:

(1) Hunting shall be by permit only. Permits may be obtained from the Refuge Manager under prescribed conditions.

(2) Crows and foxes (nonprotected species) may be hunted during periods prescribed for other game species.

(3) Foxes may be hunted with dogs, but without guns, at other times of the year under conditions set forth in permits obtainable from the Refuge Manager.

(4) Gray squirrels and rabbits may be hunted October 15 through October 17, 1970.

(5) Raccoons and opossums may be hunted February 1 through 13, 1971, Sunday excluded.

(6) Rabbits may be hunted February 23 through February 27, 1971.

(7) Quail may be hunted February 15 and 16 and February 19 and 20, 1971.

(8) Both shotguns and .22 rimfire rifles may be used for squirrel hunting, but only shotguns may be used for other species listed.

(9) No hunting is permitted within 100 yards of buildings on the refuge or adjoining the refuge boundary.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuges generally which are set forth in Title 50, Code of Federal Regulations, Part 32 and are effective to June 30, 1971.

W. L. TOWNS,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

SEPTEMBER 15, 1970.

[F.R. Doc. 70-12660; Filed, Sept. 22, 1970; 8:51 a.m.]

PART 32—HUNTING

Blackbeard Island National Wildlife Refuge, Ga.

In F.R. Doc. 70-11976 appearing at page 14264 in the issue of Thursday, September 10, subparagraph 3 under the Blackbeard Island National Wildlife Refuge is hereby amended to read as follows:

(3) The season bag limit is two deer, only one of which may be a doe.

W. L. TOWNS,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

SEPTEMBER 14, 1970.

[F.R. Doc. 70-12661; Filed, Sept. 22, 1970; 8:51 a.m.]

PART 32—HUNTING

Presquile National Wildlife Refuge, Va.

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.

VIRGINIA

PRESQUILE NATIONAL WILDLIFE REFUGE

Public hunting of white-tailed deer on the Presquile National Wildlife Refuge is permitted on the entire refuge except within 200 yards of all buildings. Hunting shall be in accordance with all applicable State regulations governing the hunting of white-tailed deer, subject to the following special conditions.

(1) A Federal permit costing $2 will be required. Permits will be issued for a 2-consecutive-day period. Permits will be limited to 85 for each 2-day period and will be issued in advance of the season to hunters selected by an impartial drawing. Applications must be received on a post card no later than September 18, 1970, at the Presquile National Wildlife Refuge, Post Office Box 658, Hopewell, Va. 23860. Permits are nontransferable.

(2) White-tailed deer may be taken with bow and arrow only from sunrise to 4:30 p.m., e.s.t., on October 15, 16, 23, 24, 30, 31, and November 5 and 6, 1970.

(3) Bag limits: One deer per day, either sex.

(4) All hunters must enter the refuge on the refuge ferry at 5 a.m., e.s.t. Entry by boat is prohibited. There will be an official State checking station on the refuge. Hunters must leave on the refuge ferry by 5 p.m., e.s.t.

(5) All travel on the refuge will be on foot or by refuge vehicles. Horses and dogs are prohibited.

(6) Possession of firearms on the refuge is prohibited.

(7) Hunters shall not disturb, damage or destroy any unharvested crops.

(8) Camping, fires, and littering are prohibited.

(8) All arrows in the possession of each hunter must be marked with the permit number issued to the hunter. The marking may be accomplished in any manner so long as the number is clearly visible.

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 November 6, 1970.

W. L. TOWNS,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

SEPTEMBER 15, 1970.

[F.R. Doc. 70-12662; Filed, Sept. 22, 1970; 8:51 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX REGULATIONS

Feeder Organizations

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] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

In order to conform the Income Tax Regulations (26 CFR Part 1) under section 502 of the Internal Revenue Code of 1954 to section 121(b)(7) of the Tax Reform Act of 1969 (83 Stat. 542), such regulations are amended as follows:

PARAGRAPH 1. Section 1.502 is amended by revising subsection 502(a) and by adding a new subsection 502(b) and an historical note. These amended and added provisions read as follows:

§ 1.502 Statutory provisions; feeder organizations.

SEC. 502(a). *General rule.* An organization operated for the primary purpose of carrying on a trade or business for profit shall not be exempt from taxation under section 501 on the ground that all of its profits are payable to one or more organizations exempt from taxation under section 501.

(b) *Special rule.* For purposes of this section, the term "trade or business" shall not include—

(1) The deriving of rents which would be excluded under section 512(b)(3), if section 512 applied to the organization,

(2) Any trade or business in which substantially all the work in carrying on such trade or business is performed for the organization without compensation, or

(3) Any trade or business which is the selling of merchandise, substantially all of which has been received by the organization as gifts or contributions.

(Sec. 502 as amended by sec. 121(b)(7), Tax Reform Act 1969 (83 Stat. 542))

PAR. 2. Section 1.502–1 is amended by revising paragraph (a) and adding a new paragraph (d). These amended and added provisions read as follows:

§ 1.502–1 Feeder organizations.

(a) In the case of an organization operated for the primary purpose of carrying on a trade or business for profit, exemption is not allowed under section 501 on the ground that all the profits of such organization are payable to one or more organizations exempt from taxation under section 501. In determining the primary purpose of an organization, all the circumstances must be considered, including the size and extent of the trade or business and the size and extent of those activities of such organization which are specified in the applicable paragraph of section 501.

* * * * *

(d) *Exception*—(1) *Taxable years beginning before January 1, 1970.* For purposes of section 502 and this section, for taxable years beginning before January 1, 1970, the term "trade or business" does not include the rental by an organization of its real property (including personal property leased with the real property).

(2) *Taxable years beginning after December 31, 1969.* For purposes of section 502 and this section, for taxable years beginning after December 31, 1969, the term "trade or business" does not include—

(i) The deriving of rents described in section 512(b)(3)(A),

(ii) Any trade or business in which substantially all the work in carrying on such trade or business is performed for the organization without compensation, or

(iii) Any trade or business (such as a "thrift shop") which consists of the selling of merchandise, substantially all of which has been received by the organization as gifts or contributions.

For purposes of the exception described in subdivision (i) of this subparagraph, if the rents derived by an organization would not be excluded from unrelated business income pursuant to section 512(b)(3) and the regulations thereunder, the deriving of such rents shall be considered a "trade or business".

(3) *Cross references and special rules.* (i) For determination of when rents are excluded from the tax on unrelated business income see section 512(b)(3) and the regulations thereunder.

(ii) The rules contained in § 1.513–1(e)(1) shall apply in determining whether a trade or business is described in section 502(b)(2) and subparagraph (2)(ii) of this paragraph.

(iii) The rules contained in § 1.513–1(e)(3) shall apply in determining whether a trade or business is described in section 502(b)(3) and subparagraph (2)(iii) of this paragraph.

[F.R. Doc. 70–12650; Filed, Sept. 22, 1970; 8:50 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 130]

APPROVED NEW DRUGS THAT REQUIRE CONTINUATION OF LONG-TERM STUDIES, RECORDS, AND REPORTS

Proposed Listing of Levodopa

A new drug may not be approved for marketing unless it has been shown to be safe and effective for its intended use(s). The Federal Food, Drug, and Cosmetic Act requires an applicant upon being notified that his new-drug application has been approved, to establish and maintain records and make reports related to clinical experience or other data or information necessary to monitor experience with the drug and to facilitate a determination of whether there are, or may be, grounds under section 505(e) of the act for suspending or withdrawing approval of the application.

Some drugs, because of the nature of the condition for which they are intended, must be used for long periods of time—even a lifetime. To determine the safety and effectiveness of long-term use of such drugs, extensive animal and clinical tests are required as a condition of approval. Nonetheless, the therapeutic or prophylactic usefulness of such drugs may make it inadvisable in the public interest to delay the availability of the drugs for widespread clinical use pending completion of such long-term studies. In such cases, the Food and Drug Administration may approve the new-drug application on condition that the necessary long-term studies will be conducted and the results recorded and reported in an organized fashion.

The Commissioner of Food and Drugs finds that levodopa is a drug requiring long-term studies and recordkeeping and reporting on the studies.

Accordingly, pursuant to provisions of the Federal Food, Drug, and Cosmetic

Act (secs. 505(j), 701(a), 52 Stat. 1053, as amended, 76 Stat. 782–83, 1055; 21 U.S.C. 355(j), 371(a)) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes that two new sections be added to Part 130, Subpart A, as follows:

§ 130.47 Continuation of long-term studies, records, and reports on certain drugs for which new-drug applications have been approved.

(a) A new-drug may not be approved for marketing unless it has been shown to be safe and effective for its intended use(s). After approval, the applicant is required to establish and maintain records and make reports related to clinical experience or other data or information necessary to make or facilitate a determination of whether there are or may be grounds under section 505(e) of the act for suspending or withdrawing approval of the application. Some drugs, because of the nature of the condition for which they are intended, must be used for long periods of time—even a lifetime. To acquire necessary data for determining the safety and effectiveness of long-term use of such drugs, extensive animal and clinical tests are required as a condition of approval. Nonetheless, the therapeutic or prophylactic usefulness of such drugs may make it inadvisable in the public interest to delay the availability of the drugs for widespread clinical use pending completion of such long-term studies. In such cases, the Food and Drug Administration may approve the new-drug application on condition that the necessary long-term studies will be conducted and the results recorded and reported in an organized fashion.

(b) A proposal to require additional or continued studies with a drug for which a new-drug application has been approved may be made by the Commissioner on his own initiative or on behalf of any interested person. Such proposal will be published in the FEDERAL REGISTER and written comments thereon invited. After considering all available data, the Commissioner will publish an order in the FEDERAL REGISTER acting on the proposal. Proposals submitted by interested persons may be refused by written notice from the Commissioner if the proposal is not supported by reasonable grounds. Upon final determination that special studies, records, and reports are required for a drug, such requirements will be published in § 130.48.

§ 130.48 Drugs that are subjects of approved new-drug applications and that require special studies, records, and reports.

(a) Listed below are the new drugs and requirements referred to in § 130.47(b):

(1) *Levodopa.* Levodopa has been shown to be of value for symptomatic relief in the treatment of Parkinson's disease. The nature of this disease requires that the drug be taken over a protracted period of time—even a lifetime. In view of the benefits attributable to levodopa, the Commissioner finds that it is not in the public interest to withhold the drug from the market until very long-term or lifetime studies have been completed for a determination of its long-term safety and effectiveness. The Food and Drug Administration has, by letters to applicants, approved new-drug applications for levodopa for use in the treatment of Parkinson's disease. In view of the known adverse effects associated with its use and considering its indicated long-term use, the Commissioner finds that holders of approved new-drug applications for levodopa should be required to continue studies with the drug as described below and to monitor such records and make such reports as are necessary with respect to the continuing studies. These studies are necessary for acquiring an organized body of information on the safety and effectiveness of levodopa in long-term use.

(i) The applicant is to carry to conclusion the 1-year chronic toxicity studies in dogs and 18-month chronic toxicity studies in rats, including the necessary histopathology.

(ii) The clinical studies now being conducted under a standard protocol are to be extended in at least 600 of the patients now under treatment. This will include the blood chemistry and medical evaluation currently being done under the existing protocol.

(iii) The applicant is to arrange for a central tissue registry to examine human autopsy material obtained from patients in the study who died while under treatment with levodopa.

(iv) Reports on the studies will be submitted under § 130.13.

(v) At the end of each year after the date of approval of the application, representatives of the Food and Drug Administration, the applicant, and if necessary, the investigators will meet to determine whether or not, based upon available information, clinical studies should be continued.

(vi) Upon request, the results of the studies will be made available to other persons holding new-drug approvals and conducting similar studies.

Interested persons may, within 30 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–62, 5600 Fishers Lane, Rockville, Md. 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof.

Dated: September 11, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70–12598; Filed, Sept. 22, 1970; 8:46 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 10587]

BRITISH AIRCRAFT CORPORATION VISCOUNT MODELS 744, 745D, AND 810 SERIES AIRPLANES

Proposed Airworthiness Directive

Amendment 39–263 (31 F.R. 10022), AD 66–19–5, and Amendment 39–685 (33 F.R. 16493), AD 68–23–7, require periodic inspections and replacements of the flap drive motor clutch drive shaft and clutch plate assemblies on British Aircraft Corporation (Vickers) Viscount Models 744, 745D, and 810 series airplanes. After issuing Amendments 39–263 and 39–685, it has come to the attention of the FAA that the manufacturer has introduced a design improvement to prevent further flap system drive failures. Therefore, the FAA is considering superseding Amendment 39–263, AD 66–19–5, and Amendment 39–685, AD 68–23–7, with a new AD that requires replacement of the flap gearbox drive motor clutch assembly with a solid drive spline adaptor and replacement of certain clutch drive shafts with improved shafts which are compatible with the solid drive spline adaptor.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, GC–24, 800 Independence Avenue SW., Washington, D.C. 20590. All communications received on or before October 23, 1970, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

This amendment is proposed under the authority of section 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423) and of section 6(c) of the Department of Transportion Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

BRITISH AIRCRAFT CORPORATION. Applies to Viscount Models 744, 745D, and 810 series airplanes.

Compliance is required as indicated.

To prevent failure of the flap gearbox drive motor assembly due to break-up of the steel inner clutch plate, accomplish the following:

(a) Within the next 25 landings after the effective date of this AD, or within the next 700 landings after the clutch plate was replaced in accordance with AD 68-23-7, whichever occurs later, unless already accomplished, accomplish the following:

(1) Replace the flap gearbox drive motor clutch assembly with a solid spline adaptor by incorporating Rotax Modification No. 4603c Part A in accordance with Rotax Service Bulletin 24-337, Revision 2, dated 24 November 1969, or later ARB-approved issue or an FAA-approved equivalent.

(2) Replace obsolete clutch driving shafts, clutch shafts, and brake drum assemblies of the flap gearbox drive motor assembly having obsolete part numbers, with serviceable replacement components having replacement part numbers, in accordance with the following table:

Component	Obsolete part Nos.	Replacement part Nos.
Clutch driving shaft	N117500 and N145421.	N149327, N187295 or N196101.
Clutch shaft	N98825	N149328.
Brake drum assembly.	N117504 and N117504/1.	N149329.

(3) Replace clutch driving shafts P/Ns N149327 or N187295, having a total of 5,000 or more landings on the shaft with a serviceable shaft, P/N N149327, N187295, or N196101.

(b) Replace clutch driving shafts P/Ns N149327 and N187295 at intervals not to exceed 5,000 landings on the shaft, and replace clutch driving shafts P/N N196101 at intervals not to exceed 10,000 landings on the shaft.

(c) Within the next 500 landings after the effective date of this AD, unless already accomplished within the last 4,500 landings, and thereafter at intervals not to exceed 5,000 landings since the last inspection, visually inspect the brake drum assembly P/N 149329 for cracks in accordance with Rotax Service Bulletin No. 24-142 dated 11 February 1966, or later ARB-approved issue or an FAA-approved equivalent, and replace drums found to be cracked with serviceable drums of the same part number.

(d) Upon completion of the replacements required by paragraph (a), remove the placard and the temporary in flight procedures in the Airplane Flight Manual required by AD 68-23-7.

(e) For the purpose of complying with this AD, subject to acceptance by the assigned maintenance inspector the number of landings may be determined by dividing each airplane's hours' time in service by the operator's fleet average time from take-off to landing for the BAC Viscount airplane.

(British Aircraft Corporation Preliminary Technical Leaflets No. 148 and No. 283 cover this same subject.)

This supersedes Amendment 39-263 (31 F.R. 10022), AD 66-19-5, and Amendment 39-695 (33 F.R. 16493), AD 68-23-7.

Issued in Washington, D.C., on September 15, 1970.

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

[F.R. Doc. 70-12637; Filed, Sept. 22, 1970; 8:49 a.m.]

National Highway Safety Bureau

[49 CFR Part 571]

[Docket No. 2-15; Notice No. 5]

CHILD SEATING SYSTEMS

Notice of Proposed Rule Making

Federal Motor Vehicle Safety Standard No. 213 is being amended today as a result of petitions for reconsideration which were received after the final rule was published March 26, 1970 (35 F.R. 5120). As indicated in the preamble to the revised standard, certain provisions of the standard are being considered for further revision and refinement. Accordingly, this notice proposes several amendments to Standard No. 213.

Paragraph S3 currently defines "child seating system" to mean "an item of motor vehicle equipment for seating and restraining a child being transported in a passenger car, multipurpose passenger vehicle, truck, or bus." In the amended rule, the reference to the particular vehicles has been changed to read "in a motor vehicle" for purposes of clarity, and without changing the substantive requirements of the standard. As stated in the preamble to the amendment, however, in response to the petition for reconsideration received from General Motors, the Director is proposing to amend the definition to include all devices for seating children being transported in motor vehicles, whether or not restraint is provided. The Director has concluded that inclusion of all child seating devices within the scope of the standard will further motor vehicle safety by eliminating from the marketplace child seating devices that do not provide adequate protection for children.

Paragraph S4.3 presently provides that the components of each child seating system that directly restrain the child shall be adjustable to fit those children of the size for which the seat is designed when the child is placed in the seat according to provided instructions. It is proposed that this paragraph be revised to specify that the degree of adjustment allow any child for which the seat is recommended to be easily placed in the system, and at the same time, to fit any such child in a snug manner when tightened around him.

It is further proposed that paragraph S4.6, dealing with the head restraint capability of a child seating system, be amended. In the amended standard issued today, paragraph S4.6 requires each child seating system manufactured on or after April 1, 1971, to be able to provide restraint for the head of its occupant during impacts from the rear. However, the paragraph does not specify minimum dimensions for a child seat head restraint or the extent to which a head restraint must be able to withstand rearward loadings. This notice proposes the addition of head restraint dimension and strength requirements, as well as an appropriate test procedure for determining whether the strength requirements have been met.

Amendments to the impact protection requirements in paragraph S4.10 of the standard are also proposed. Specifically, it is proposed to incorporate into the standard more precise performance requirements for the energy-absorbing material that must cover any rigid component that is contactable by the head or torso of a child during certain impacts. The proposal would also add a test procedure for ascertaining whether those performance requirements have been met. In addition, it is proposed to amend the impact protection requirements to except only torso impact areas when the contactable area of the side or back is at least 24 square inches.

In consideration of the foregoing, it is proposed that Federal Motor Vehicle Safety Standard No. 213 be amended as follows:

1. Paragraph S3 would be revised to read as follows:

S3. *Definitions.* "Child seating system" means an item of motor vehicle equipment for seating a child being transported in a motor vehicle.

* * * * *

2. Paragraph S4.3 would be revised to read as follows:

S4.3 *Adjustment.* Each child seating system component that is adjustable and is designed to restrain the child directly shall be sufficiently adjustable to allow a child of any size for which the seat is recommended pursuant to paragraph S4.1(h) to be placed in the seat, and to fit snugly any such child who is positioned in the system in accordance with the instructions required by S4.2.

* * * * *

3. Paragraph S4.6.1 would be revised to read as follows:

S4.6.1 Except as provided in S4.6.2, each forward-facing child seating system shall have a head restraint with the following characteristics:

(a) The lateral width of the head restraint shall be at least 6 inches, measured on a horizontal plane 2 inches below the upper-most point of the head restraint.

(b) The height of the head restraint, measured as the straight-line distance between the highest point at the lateral center of the head restraint and the lowest point at the lateral center of the seating surface, shall be as follows:

If the maximum weight of children for whom the system is recommended is:	The height of the head restraint shall be at least:
20 pounds or less	15 inches.
More than 20 pounds but not more than 25 pounds.	16.2 inches.
More than 25 pounds but not more than 30 pounds.	17.9 inches.
More than 30 pounds but not more than 35 pounds.	18.9 inches.
More than 35 pounds	20 inches.

(c) When tested in accordance with S5.1, the head restraint may not permit the headform to be displaced more than 2.75 inches in a rearward direction.

* * * * *

4. Paragraph S4.10 would be revised to read as follows:

S4.10 *Impact protection.*

S4.10.1 *Head and torso.* Except as provided in S4.10.2, any rigid component of a child seating system (except restraint belt buckles) that during forward, right-side, left-side, or rearward impact may contact the head or torso of a child within the weight and height range recommended in accordance with S4.1(h) shall—

(a) Have no corner or edge with a radius of less than one-quarter inch; and

(b) Be covered with energy-absorbing material having—

(1) A thickness of at least one-half inch;

(2) A closed cell structure; and

(3) A 25-percent compression-deflection resistance of not less than 5 and not more than 13 pounds per square inch when tested in accordance with S5.2.

S4.10.2 *Exception.* S4.10.1(b) does not apply to the area of a rigid back or side of a child seating system that is contactable by only the child's torso, if the contactable area of the back or side that is higher than the system's seating surface is at least 24 square inches.

* * * * *

5. Paragraph S5 would be amended by renumbering paragraphs S5.1 and S5.2 as paragraphs S5.3 and S5.4, respectively, and by adding new paragraphs S5.1 and S5.2 to read as follows:

S5.1 *Head restraint.*

(a) Place the child seating system on a rigid fixture and attach the base of the child seat securely to the fixture.

(b) Position any adjustable head restraint in its fully extended design position.

(c) Place the rearmost surface of a cylindrical headform, having a diameter of 6 inches in plan view and a height of 5 inches in profile view, tangent to the front surface of the head restraint, at its lateral centerline, at a point 2 inches below a horizontal plane tangent to the uppermost point of the head restraint.

(d) Apply a 40-pound force in a rearward direction through the center of the headform, in a direction normal to the surface of the head restraint at the point of tangency.

(e) Measure the rearward displacement of the headform at its rearmost surface.

S5.2 *Energy-absorbing material.* Prepare test specimens of the energy-absorbing material in accordance with section 14, and subject them to the 25-percent compression-deflection test described in sections 17, 19, and 20 of the American Society for Testing and Materials (ASTM) Standard D1056-68, "Testing Sponge and Expanded Cellular Rubber Products," December 1968.

Interested persons are invited to submit written data, views, or arguments pertaining to the proposed amendments. Submissions should refer to Docket 2-15, Notice 5, and should be submitted to: Docket Section, National Highway Safety Bureau, Room 4223, 400 Seventh Street SW., Washington, D.C. 20591. It is requested, but not required, that 10 copies be submitted. All comments received before the close of business on November 23, 1970, will be considered and will be available for examination in the docket at the above address, both before and after the closing date. To the extent possible, submissions filed after the above date will also be considered by the Bureau. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The Bureau will continue to file relevant material, as it becomes available in the docket after the closing date and it is recommended that interested persons continue to examine the docket for new materials.

Proposed effective date: January 1, 1972.

This notice of proposed rulemaking is issued under the authority of sections 103, 112 and 119 of the National Traffic and Motor Vehicle Safety Act of 1966, as amended (15 U.S.C. 1392, 1401, 1407), and the delegations of authority at 49 CFR 1.51 (35 F.R. 4955) and 49 CFR 501.8 (35 F.R. 11126).

Issued on September 17, 1970.

RODOLFO A. DIAZ,
Acting Associate Director, Motor Vehicle Programs, National Highway Safety Bureau.

[F.R. Doc. 70-12597; Filed, Sept. 22, 1970; 8:46 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Internal Revenue Service

VAL RAY McGRAW

Notice of Granting of Relief

Notice is hereby given that Val Ray McGraw, 7631 Teahen Road, Brighton, Mich., has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on January 7, 1964, in the Oakland County Circuit Court, Pontiac, Mich., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Mr. McGraw because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Mr. McGraw to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Val Ray McGraw's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered*, That Mr. McGraw be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 15th day of September 1970.

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

[F.R. Doc. 70-12687; Filed, Sept. 22, 1970; 8:52 a.m.]

GEORGE FREDERICK THEEL

Notice of Granting of Relief

Notice is hereby given that George Frederick Theel, 24429 Pennie Street, Dearborn Heights, Mich., has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on August 31, 1959, in the Circuit Court of Wayne County, Detroit, Mich., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Mr. Theel because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Mr. Theel to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered George Frederick Theel's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), Title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered*, That Mr. Theel be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 11th day of September 1970.

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

[F.R. Doc. 70-12689; Filed, Sept. 22, 1970; 8:52 a.m.]

LEO K. WEATHERFORD, JR.

Notice of Granting of Relief

Notice is hereby given that Leo K. Weatherford, Jr., 28403 North Cottonwood Road, Chattaroy, Wash., has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on October 29, 1954 in the District Court of Canadian County, Okla., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Mr. Weatherford, Jr. because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Mr. Weatherford, Jr. to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Leo K. Weatherford, Jr.'s application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered*, That Mr. Weatherford, Jr. be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 11th day of September 1970.

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

[F.R. Doc. 70-12688; Filed, Sept. 22, 1970; 8:52 a.m.]

DEPARTMENT OF JUSTICE

Bureau of Narcotics and Dangerous Drugs

DEPRESSANT AND STIMULANT DRUGS

Use of Peyote for Religious Purposes

Findings of fact and conclusions and order regarding the petition of the Church of the Awakening to amend § 320.3(c)(3).

In the matter of the petition of the Church of the Awakening to amend § 320.3(c)(3):

Petitioner's amendment would grant the Church an exemption to use peyote for religious purposes. A hearing was held on this matter before Mr. Frederick M. Garfield from June 30, 1969, through July 9, 1969. The report, findings of fact, conclusions, and recommendations of the hearing examiner follow in their entirety:

In the matter of: Petition of the Church of the Awakening to amend 21 CFR 320.3(c)(3).

The Church of the Awakening first petitioned the Food and Drug Administration on May 17, 1967, under the Drug Abuse Control Amendments of 1965 for an exemption to use peyote for religious purposes. This petition was denied by the Commissioner of the Food and Drug Administration on July 10, 1967. On January 11, 1968, the Church again petitioned the Food and Drug Administration for an exemption. This petition was also denied.

On May 15, 1969, the Director of the Bureau of Narcotics and Dangerous Drugs[1] received a petition from the Church of the Awakening, declared to be a New Mexico corporation, Dr. John W. Aiken of Socorro, N. Mex., President of the Church, and 13 members of the Church, as copetitioners to amend § 320.3(c)(3) of Title 21 of the Code of the Federal Regulations. The purpose of the petition is to obtain an exemption for the said Church to permit them the nondrug use of peyote in bona fide religious ceremonies. Notification of the submission of this petition was published in the FEDERAL REGISTER on June 26, 1969 (34 F.R. 9871).

On June 11, 1969, Dr. John Aiken, and Mr. John Adams of the American Civil Liberties Union, met with members of the Chief Counsel's Office of the Bureau of Narcotics and Dangerous Drugs and arranged a mutually convenient procedure by which the Church could petition for an exemption and also make a record containing the necessary facts should an appeal to the courts be necessary.

A prehearing conference was held by the Hearing Officer on June 30, 1969, at which time a record was made of the proceedings. During this prehearing conference, it was established that the particular section in question was erroneously cited, i.e., Petitioners brought the action pursuant to section 701(e)1(b) of the Federal Food and Drug Act to amend § 166.3(c)(3) of Title 21 of the Code of Federal Regulations whereas this regulation is now designated as 21 CFR 320.3(c)(3). Other matters were discussed as to the conduct of the hearing. It was agreed that while this hearing was informal, a record would be made and the record would be used in lieu of a separate public hearing in the event of a request for a court review.

The hearing began on June 30, 1969, and ended on July 9, 1969. A transcript of the testimony, 926 pages, sets forth the testimony of seven witnesses on behalf of the Government and 10 witnesses on behalf of the Petitioner. Additionally, four depositions were taken between June 18, 1969, and June 25, 1969, consisting of some 280 pages. Nineteen exhibits were introduced into evidence on behalf of the Government and 26 were introduced by the Petitioner. Briefs were filed by the Petitioner and the Government.

The Drug Abuse Control Amendments of 1965 were passed by the House of Representatives on March 10, 1965. The Senate passed its version on June 23, 1965. On July 8, 1965, the House concurred in the Senate's amendments and the Bill was signed into law by the President on July 15, 1968. It is vital to note in this respect that the Senate report differed significantly from the House report in that it said "the Committee determined that it would not be desirable to specify drugs other than barbiturates and amphetamines as subject to the controls of the Bill, but determine that the other classes of drugs are to be brought under control of the Bill on a case by case basis by the Secretary of Health, Education, and Welfare under the standards prescribed in the legislation. In accordance with this determination, the Committee omitted specific reference to peyote as a substance subject to the provisions of the legislation. It is expected that peyote will be subject to the same consideration as all other drugs in determining whether or not it should be included under the provisions of the legislation."

Basis for petition. Subsequent discussions and inclusions in the Congressional Record as elucidated in Petitioner's own brief indicate that the exclusion of peyote from the legislation focused only on the Native American Church. Section 320.3 of title 21 specifically lists peyote and mescaline and salts of mescaline as being controlled drugs. The law also states:

> The listing of peyote in this subparagraph does not apply to nondrug use in bona fide religious ceremonies of the Native American Church: however, persons supplying the product to the Church are required to register and maintain appropriate records of their receipts and disbursements of the article.

Petitioners, in fact, seek an amendment to this section. They propose that the above text read as follows:

> The listing of peyote in this subparagraph does not apply to nondrug use in bona fide religious ceremonies of the Native American Church and of the Church of the Awakening: * * *

The grounds upon which the Petitioners rely for the proposed amendment is as follows:

The use of peyote by members of the Church of the Awakening in pursuance of precepts of said Church and under the provisions of its authorized personnel is in bona fide pursuit of a religious faith.

In the petition it is alleged that:

The Church of the Awakening has a present national membership of approximately 390. It is an outgrowth of a group formed in 1958 in New Mexico for the purpose of religious study. It was incorporated in 1963 by members of said group as a nonprofit religious corporation under the laws of the State of New Mexico.

In 1960, the sacramental use of peyote was found by said group to be valuable for the actualizing of the user's religious or spiritual potential. After said Church was incorporated, the use of peyote was named as a sacrament of the Church.

It is further alleged that:

The religious sacramental use of peyote has been carried on by the members of said group since 1960 and by members of said Church since 1963. A number of members of the Church, including the individual petitioner signing this petition and the copetitioners joining in this petition have bona fide beliefs and convictions that the partaking and ingestion of peyote as a sacrament, according to the precepts of said Church, is valuable for the actualizing of their respective religious and spiritual potential, and they have a desire to use peyote for such purpose, but are prevented from doing so by reason of the regulations, amendment of which is sought by said petition. For such reason the regulation as now promulgated defeats the immunity given such use by the First Amendment of the Constitution of the United States.

From John W. Aiken's affidavit accompanying the petition the following is abstracted:

The Church of the Awakening is a New Mexico corporation, incorporated on October 14, 1963 as an outgrowth of a group of people who began meeting weekly in Socorro, N. Mex., for the purpose of religious or spiritual exploration. This group began by exploring the field of extrasensory perception and psychic phenomena. Petitioner and others began to experiment with the use of peyote and believed it to be the door to the inner-life of the spirit. Most of such religious explorations were done with peyote, but later mescaline was used in the same way with comparable results. After these initial experiments and alleged revelations, the Church of the Awakening was granted a charter by the State of New Mexico on October 14, 1963 as a nonprofit religious organization.

The bylaws of said Church provide that if other substances, in addition to peyote, with similar properties were found to be useful in the development of religious insight and experience, they might also be used, if this use is legal. The explicit purpose of the Church of the Awakening is to encourage spiritual growth on the part of each member to stimulate him to ask questions, to develop insights, and to encourage the sharing of such growth and insights with others in love and service. Each is encouraged to participate in his own spiritual growth and his own evolution. It is a precept of the Church that such growth and such evolution is the true purpose of all religion—in fact that such growth is religion.

Inner-growth or learning and service and sharing can be encouraged in traditional ways, but should be without the traditional

See footnotes at end of document.

bondage to approved forms and rituals. Innergrowth and learning is encouraged by the study of the writings of sages and mystics. Group meetings at regular intervals is another very important and useful means in the process of growth. In such group activity, two practices are of great importance. One is sharing through discussion and the other sharing through silent meditation. Both should be practiced, but of the two, meditation has the greater potential for the stimulation of individual growth and understanding.

The Church purposes are further encouraged through individual and group participation in the ingestion of peyote. This substance is to be administered to those who have been previously prepared and by those who are certified monitors of the Church.

At this point in the petition, Dr. Aiken goes into a dissertation on the procedure of the preparation for the peyote ingestion. This procedure was changed during the hearing and will be discussed in depth later. The petition also states that it is the earnest desire of the Church and its officials to make available to members the tremendous potential for achieving a deep religious experience through the peyote sacrament and to protect members and the public from the hazards of improper use.

Government's theory of case. The Government recognizes in its brief that a balancing test is required wherein the free exercise of religion is weighed against the multifaceted governmental interest. The Government alleges that the importance of the religious practice abridged in the instant case is minimal within the petitioners' own framework; that the denial of the petitioners' request will not seriously interfere, if at all, with the practice of their religion, if indeed, a religion it be; that the Government has an overriding interest in controlling the use of peyote and other hallucinogenic drugs; that the present scheme of regulation is necessary to protect the public health; and, finally that an exemption such as the one requested in the instant case would have a disastrous effect on the overall program of dangerous drugs regulation. In particular, the Government claims that the proposed use of peyote by the petitioners is not "essential" nor "central" to the religion, and the denial of such use would not constitute an infringement on the petitioners' constitutional right to exercise their religion.

From the outset, the Government claims that the Church of the Awakening is not a religion. It maintains that the petitioners are religious, but their practices do not constitute a religion. Going further, the Government maintains that the denial of the petition would not prevent the practice of the petitioners' religion. Expanding the original concept, the Government maintains that it has a legitimate and compelling interest in regulating the use of peyote a drug shown to have a potential for abuse because of its hallucinogenic effect. The Government reasons that an examination of the evidence produced during the hearing shows the necessity for controlling dangerous substances, including peyote, and that the public interest weighs heavier in the balance than the alleged interference with the Church's religious practices.

The Government further shows that elaborate measures have been enacted to control the use of dangerous drugs. This is based on the philosophy that drugs must be shown safe and effective before they can be made available to the public, and even if they have been found effective they must be subjected to further controls according to their danger and potential for abuse. Some drugs have been shown to be dangerous physically and psychologically to the user and thus possess a potential for abuse. This, the Government says, presents a danger for the hallucinogens sufficient in itself to preclude granting the amendment. Whenever medical science can demonstrate that a religious practice is harmful to public health and not merely personal health, that practice rather than the belief can be prohibited without violating the constitutional guarantee of freedom of religion. The Government does not question the sincerity of the petitioning members of the Church of the Awakening, but the Government does insist that other individuals using the cloak of religion to use drugs indicate that the problems in enforcing the peyote laws would be overwhelming. The Government also points out that the requirements for membership in the Church of the Awakening are so nebulous that if the petitioners' request for an amendment were granted, there would be no feasible way to control the use or abuse of the drug. In fact, anyone who is able to sign his name to an application can become a member of the Church, use the exemption and claim First Amendment protection as a "shield" for whatever use he may wish to make of the drug. It is pointed out that should such an exemption be granted, the Government would have no way of curtailing the formation of other churches whose sole purpose would be to legalize drug use for their membership.

In pointing out the potential dangers to the individual's physical well-being, the Government lists and explores cellular death, lassitude, premature aging, decreased life span, leukemia, malignancies, and organ toxicities. The potential dangers to offspring include decreased growth rate, leukemia, fetal abnormalities, increased abortions, early abortions, infertility and sterility. The dangers to the individual's psyche include psychosis, psychological dependence (including escapes from reality), and abuse due to cultural orientation. Additional dangers include suicides and crimes or harm to other individuals while the user is hallucinating. Symptoms observed are depression and psychotic reactions, including paranoia, suspicion, "flash backs," catatonic states, lassitude and laziness, confusion and impaired intellectual and psychomotor functions.

By exploring the unique situation of the Native American Church, the Government justifies the regulation allowing its use of peyote on the basis of the traditional legal and cultural status of the American Indians which is "sui-generis" in showing that the peyote sacrament in the Native American Church is different and distinct from that of the Church of the Awakening. The Government alleges the special membership requirements of the Native American Church and the overriding factor that peyote is essential and central to the religion in that without peyote their religion would not and could not exist.

Petitioners' Theory of Case. Petitioners claim that they have shown the use of peyote as a sacrament under the tenants of their church and that the experience engendered with the peyote "sacrament" goes to the very heart of their religion. Petitioners allege that the tenants of the Church are to strive towards the direct experience of God. They conclude "it is not the only way to find God, but it is a most important tool and many people would not find this experience without it."

Petitioners further allege that the peyote sacrament as practiced by the Church of the Awakening requires a serious religious intent. By demonstrating evidence of the beliefs of the petitioner and copetitioners and the religious nature of the ingestion of peyote, it is claimed that inquiry into the validity of such beliefs is not permissible under the First Amendment. They contend that granting an exception to the Native American Church for its religious use of peyote and opposing like use by the petitioner and copetitioners is a violation by the Government of the establishment clause of the First Amendment. Petitioners claim that conceding that the Government may proscribe the religious use of peyote, a case justifying such proscription does not exist here. It is claimed in the area of religious freedom, only the gravest abuses endangering paramount interest give occasion for permissible limitation, and that no such abuse or danger has been advanced in the present case. Petitioners further go on to indicate that the Government's proof of the deleterious effect of these materials is weak and does not justify valid consideration.

Specialized findings of fact. 1. Peyote is the common name of a plant presently classified botanically as Lophorphora Williamsii Lemaire. It is a small, spineless, low growing cactus; carrot- or turnip-like in shape and size. Only the fleshly, rounded top appears above the soil. It is the pincussion-like top which when sliced off and dried becomes the hard, brittle disk shape button. This is the button which is used ceremoniously or otherwise to produce profound sensory and psychic phenomena attributed to peyote. The peyote cactus is native to the region of the Rio Grande Valley and southward.[2]

2. Peyote contains many active alkaloids. The least toxic alkaloid is mescaline.[3] Three other alkaloids are identified as moderately toxic. These are

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anhalamine, anhalonidine and pellotine.[4] The most toxic alkaloids found are anhalonine and lophophorine. For these latter two drugs, 0.0011 grams per kilogram is lethal for frogs.[5] The absolute toxicities of all the alkaloids have not yet been determined.[6] Studies have been made of the effects of these alkaloids individually, but it remains to be determined what the combined effect these substances, as they are found in the peyote button, is, and if there is an interaction of these substances which could produce an effect different from that initiated by each of the drugs used separately.[7] Mescaline is an active substance [8] which is the least of the alkaloids in peyote and is known to constitute approximately 1.5 percent of the weight of the peyote button.[9] Pellotine and anhalonidine have sedative effects. Lophophorine and anhalamine are strong convulsants similar in action to strychnine.[10]

3. Peyote is generally distributed in the form of dried buttons.[11] The ultimate dosage form and method of ingestion varies from chewing and ingesting the button to decocting the button to a tea-like liquid to be drunk, grinding the button to a powder to be enclosed in gelatin capsules to ease ingestion, or injecting a solution of the substance into the body.[12]

4. The emetic activity found shortly after ingestion of peyote or mescaline is described to a central effect as opposed to an irritant effect on the lining of the stomach.[13] This effect is not self-limiting because variations in emetic response might not preclude the ingestion of a lethal dose.[14] That the lethal dosage in humans is not known is emphatically brought out by petitioner John Aiken, who admits to the lack of scientific knowledge in this area.[15] Vomiting or emisis, a recognized side reaction of ingestion of this drug can be in and of itself inherently dangerous to certain susceptible members of the population—for example, someone suffering from cardiovascular disease.[16]

5. Animal tests with both mescaline and LSD indicate a strong likelihood that ingestion of these substances will lead to fetal abnormalities.[17] Whether this effect is original or cumulative is not yet determined.[18] Initial studies in this area are sufficient, when it comes to the matter of safe-guarding the public health and welfare, to predict the comparability of mescaline to LSD [19] as a teratogenic agent.[20] Because of peyote's accepted status as a hallucinogen and on the basis of submitted evidence that some of the manifestations and characteristics of other hallucinogens are indistinguishable from peyote and because of the relative paucity of conclusive research concerning peyote, it is reasonable to assume that the evidence submitted for other hallucinogens will apply to peyote.[21] It is thus found that the potential dangers to off-spring include decreased growth rate, fetal abnormalities, increased abortions, early abortions, infertility and sterility.[22] Other dangers which are indicated are the possibility of leukemia, lassitude, and decreased life span.[23] The physiological effects of peyote is one of physical and mental exhilaration.[24] At the onset, there is wakefulness, mild analgesia and a sensation of fullness in the stomach or loss of appetite which may lead to active nausea, a feeling of tightness in the chest, some muscular tetany, and heightened sensitivity to sound, color, form and texture. Later phases may include visions or hallucinations.

The paucity with human research conducted with regards to peyote, mescaline and other related hallucinogens has disclosed controversy with respect to short term and long range effects on man.[25] There are indications of harmful, somatic and mutagenic effects.[26] It has been demonstrated that incurable psychosis can be induced because of the use of these drugs under certain situations.[27] It is established that there is no accurate screening procedure which would definitely identify any individual who might be prone to such a psychosis.[28]

6. Peyote is a drug having a hallucinogenic effect within the meaning of 21 U.S.C. 201(V)(3). The criteria applicable to the determination of whether a drug has a hallucinogenic effect is the consideration of whether the substance will produce hallucinations, illusions, delusions, or alteration of any of the following:

1. Orientation with respect to time or place.[29]

2. Consciousness as evidenced by confused states, dreamlike revivals of past traumatic events or childhood memories.[30]

3. Sensory perception as evidenced by visual illusions, synesthesia, distortion of space and perspective.[31]

4. Motor coordination.

5. Mood and affectivity as evidenced by anxiety, euphoria, hypomania, ecstasy, autistic withdrawal.[32]

6. Ideation as evidenced by flight of ideas, ideas of reference, impairment of concentration and intelligence.[33]

7. Personality as evidenced by depersonalization and derealization, impairment of conscience, and acquired social and cultural customs.[34]

There is sufficient indications in the record which conclusively establish that peyote is in that class of substances as described above having a hallucinogenic effect.[35]

7. That psychological harm may be precipitated by the ingestion of peyote is manifest.[36] Permanent psychological damage can occur when people have both good or bad "trips." [37] There is potential for personality disintegration and the breakdown of certain mechanisms needed to function effectively in society. With continued use over long periods of time, problems arise in focusing concentration. Memory failure occurs and there is a decrease in mathematical ability. There may occur creeping paranoia or feelings of persecution, exaggerated feelings of self-confidence, or even growing underlying feelings of inferiority. There is exhibited passivity, loss of energy and lack of desire to do things, impulsiveness, and feelings of the futility of life and helplessness about one's future.[38]

8. Up to 5,000 bad trips were noted by one of the witnesses. These bad trips were an immediate unpleasant experience for the subject and were compared to the psychological harm that occurs from the "good trips," in that one who experiences a "good trip" wishes to repeat the performance and may well build a psychological dependence for the continued experiencing of the sensations produced by the drug.[39]

9. There is evidence of subjective correlations of peyote to religious insight and personal psychological and mental gain. These experiences may vary with the conditioning and the set and setting of the individual at the time of ingestion of the drug. These attributes are described by some as unreal and psychedelic hypocracy.[40]

There is no approved medical use of peyote in the United States; however, experimentation with hallucinogens, particularly LSD, is being conducted with terminal patients, alcoholics and others to determine the therapeutic utility.[41] While one report was favorable, the majority of the reports dealing with alcoholics appeared negative for medical value.[42]

10. The set or setting of an area in which the subject is to ingest peyote and the subject's preparation is important to the immediate or initial outcome precipitated by the ingestion of the drug. It does not, however, guarantee a favorable immediate reaction, but it does lessen the probability of a traumatic experience. Precipitious problems do occur less frequently in such settings, but they do occur.[43]

11. That the administration of peyote must be given under very special circumstances is uncontroverted in the record. The controversy arises as to the particular circumstances themselves. Likewise, the necessity of trained personnel in attendance is unquestioned. The degree of training, however, raises grave conflicts of opinion.[44]

A screening of subjects is necessary before ingestion of the drug to insure that certain types of personalities are rejected. This screening is of a psychological nature. If after the screening and ingestion of peyote a reaction sufficient in intensity requires the termination of the "experience," a physician must first determine the problem, and second, administer the necessary antidote drug, i.e., chlorpromazine, pentothal, or similar type drugs.[45]

The Church of the Awakening requires "monitors, ministers and a physician on call." Ministers and monitors need not possess, according to the petitioners' requirements, the ordinary scholastic and licensing requirements to practice psychology, psychiatry, or medicine, and yet they are expected to make psychological, medical, and psychiatric determinations.[46]

Of the conditions precedent to the appointment of a monitor or minister of the Church, one or more of the listed

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requirements may be waived by the "Directors." [47]

12. The Church of the Awakening is a loosely formed group incorporated by Drs. John and Louise Aiken for the purpose of studying and developing the spiritual nature of man in order for man to recognize his oneness with the cosmos, and to find purpose and meaning of life. The thing that is most important and fundamental to the beliefs of petitioning Church is the "mystical experience," or the attainment of the goal of "religious experience." [48] It is not inconsistent for members to be practicing members of other religious entities or religions.[49]

The Church desires to provide for those who request it, the opportunity to have a psychedelic experience which is a sacrament of the Church. A psychedelic experience is defined as that experience which occurs following the ingestion of peyote or like substances which may be found useful for the purpose of increasing man's understanding of himself.[50] Other psychedelic drugs, if legal and safe, could be used rather than peyote if the latter remains illegal.[51] There is no one single drug which is considered by the Church to be fundamental to its religion.[52]

13. The Church of the Awakening exists today and its members do not partake of hallucinogenic substances.[53] There are members of the Church to whom peyote is nonessential.[54] The one fundamental fact is that the mystical or religious experience is fundamental to the Church and that drugs are not the only means to achieve this end.[55] The mystical experience is achieved more quickly with peyote.[56]

14. The Board of Directors is a loosely knit group with the membership of some of the Board unknown to other members of the Board; likewise, the Board members are not fully knowledgable of the monitors of the Church. There is a clear and distinct possibility that the membership of the Board of Directors can change—that it may change is fact.[57]

15. The sole membership requirement is the filling out of a membership blank which implies the understanding of the objectives of the Church. There is no indication of any means by which a person wanting to become a member of the Church may be denied membership. The precise membership in the Church and their dates of membership have not been determined.[58]

16. There has been no policy established as to the age at which peyote ingestion is to be limited.[59]

17. Sacrament in the Church is described as a sacred experience, not a fundamental something essential for salvation or other religious ends. Sacrament is the sacred experience.[60] The Church believes in the use of any hallucinogen so long as it is legal.[61] There are no medically approved hallucinogens in the United States today.

18. In the attainment of its goal of the religious experience, the requirement for monitors in the Church is extremely flexible and can be changed readily at the will of the Board of Directors.[62] The original requirements as set forth in the petitioners' petition on page 17 et sequitur have been changed as manifested by petitioners' exhibit No. 5 during the course of the hearing. Along with changes in the procedures for the ingestion of peyote, using the latter procedures and qualifications, the sacrament is to be dispensed only at the National Center of the Church of the Awakening (which is not yet existent) under the direct supervision of an ordained minister of the Church.[63]

Competent medical assistance shall be available but not necessarily on hand.[64] A candidate shall have a minimum of a week available for the experience. Two days of preparation are required utilizing meditation, music, relaxation, self-examination and the development of an increased rapport with the minister or certified monitor.[65] Medical assistance shall be nearby (i.e., on call) but not necessarily present during the experience.[66] One day shall be devoted for the experience itself and the 4 subsequent days for orientation in light of new perspectives hoped to be achieved.[67]

19. Group participation may be instituted for those who have previously achieved at least three satisfactory individual experiences. There are no criteria that have been established to indicate what constitutes a satisfactory individual experience or an unsatisfactory one. The group shall have no more than five members—each having a mutually satisfactory rapport with the others, and may be guided or accepted by a single minister on a given day. The minister may not partake of the substance and he shall be assisted by at least one certified monitor or monitor candidate. The latter also shall not partake of the substance.[68]

20. The peyote will be available only to those who have been members of the Church for a minimum of 1 year and whose personality and motivation are known to a minister of the Church.[69] After the first experience no member may participate in the experience oftener than three times a year.[70] The subject shall be under supervision for 24 hours after the beginning of the experience.[71]

21. The qualifications and appointment of monitors are as follows: Minimum age, 25 years. Education should include not less than 2 years of college and preferably a bachelor's degree. Personality should be outgoing and capable of developing rapport with a variety of people. He should be oriented towards service rather than profit or status. Experience should include at least five personal individual psychedelic experiences; the observance of five given by a minister or certified monitor; and monitoring five under the supervision of a minister or certified monitor. He may then be recommended to the Board of Directors for certification. The five personal individual psychedelic experiences need not be within the framework of the Church and could definitely include individual nonchurch oriented ingestions of hallucinogens.[72]

22. There are numerous other means to attain the religious experience desired by the petitioners. The experience may be achieved by meditation, fasting, hypnosis, deliberation, and contact with other members of the Church. The Church presently exists utilizing these other methods.[73]

23. Peyote has an entirely different and individual meaning to the members of the Native American Church. It is essential to their religion; it is a deity; it is a subject of worship as well as an instrument of worship and without it, the religion would cease to exist and could not function.[74]

24. Indians in the United States are treated differently from other citizens. Their situation is similar to sovereign nations in that their relationship with the Federal Government is direct and not through a State or other municipal authority. To the Indians on a reservation, there is a separate Bill of constitutional rights, 25 U.S.C.A. 1301 et seq.[75]

25. That mescaline or peyote is abusable and has a ready market among the drug culture throughout the Nation is evidenced by the number of clandestine laboratories which have been discovered by Federal Agents.[76]

Conclusions. While the record of the hearing and the briefs presented by the Church of the Awakening and the Government in this case are voluminous, the issues are relatively clear cut.

1. Do the precepts of the Church of the Awakening constitute a religion?

2. Is the use of peyote, or other hallucinogenic drugs essential to the Church in its religious practices?

3. Would the denial of the requested exemption constitute an infringement on the petitioners' rights to exercise their religion?

4. Would the Church's use of peyote pose a substantial risk to health and life, or to the social well-being or the convenience of society?

5. Does the granting of an exemption for the use of peyote to the Native American Church of North America and not to the Church of the Awakening violate the petitioners' constitutional rights?

It is the opinion of the Hearing Officer after review and study of the record that the Church of the Awakening is not a religion in the true sense of the word, but a loose confederation of kindred souls whose purpose is to explore the mystical boundaries of humanity through the use of hallucinogenic drugs and other means.

Peyote obviously is not essential to the existence of the Church of the Awakening. The Church has existed and does exist without the use of the drug. Other means may and are being utilized to achieve the fundamental goals of the Church. Granted, arguendo, that drugs can facilitate or precipitate a religious or mystical experience, the record shows that the experience can be reached through less convenient means such as fasting, prayer, meditation, hypnosis, etc. Therefore, denial of the exemption would not infringe on the rights of the

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petitioners to exercise their religion. The fact that the Church is functioning and has been functioning since 1965, the year of the enactment of the Drug Abuse Control Amendments, is prima facie evidence that it can exist and function without peyote.

The Government has direct responsibility and interest in the control of certain hallucinogenic drugs under the Drug Abuse Control Amendments of 1965. Peyote has been designated as a drug with a potential for abuse because of its hallucinogenic effect and it is subject to control under the Amendments.

This law was passed by the Congress to improve Federal controls over depressant, stimulant, and hallucinogenic drugs because their illegal manufacture or diversion into the illicit market posed a danger to the public health and safety. The Government's interest for the public welfare is sufficient to override the inconvenience that refusal of the exemption might cause to the petitioners.

Peyote is an inherently dangerous substance capable of producing psychosis and other psychological harm as well as physical problems. There is insufficient knowledge in the areas of medicine and science to permit the promiscuous unleashing of this drug without adequate medical or psychiatric supervision. The Church's proposed methods for the psychological and medical screening and supervision of members before, during and after ingestion of peyote are insufficient to provide for the safety of users. To administer this drug and other hallucinogens requires careful procedures. A physician is essential to the experience. Likewise, screening of the prospective user must be done by one capable of diagnosing certain psychological and medical factors which preclude the use of nonmedical personnel proposed by the Church.

The Church of the Awakening is generically different from the Native American Church of North America which is sui generis. The Native American Church is composed basically of Indians, who are treated differently from the ordinary citizenry of the United States. The relationship with the Federal Government has been established through law and treaty. The use of peyote in the Native American Church is different from and in no way similar to use of peyote proposed by the petitioners. Peyote in the Native American Church is a deity—a sacrament essential to the religion. Without peyote, the religion could not exist and would in fact, cease to function. This is not so with the Church of the Awakening. In the Church of the Awakening, it is an added attraction or an expeditious means to an end.

Both the First and Fourth Amendment application of the Constitution to the Native American Church of North America is different from the application of those clauses to the members of the Church of the Awakening.

There is a decided facility for drug abusers to enter into the membership of the Church of the Awakening. This would provide a ready means to acquire immunity from the law if the petition were granted. "Bad faith" of future members and monitors is a real problem under the proposed requirements enumerated by the Church. Granting of the exemption would create serious breaches in drug abuse legislation and open the door to pseudoreligions conceived for the purpose of circumventing drug laws intended to control the misuse of drugs.

Accordingly, it is recommended that this report be adopted and the petition of the Church of the Awakening be denied.

FREDERICK M. GARFIELD,
Hearing Officer.

FOOTNOTES

These footnotes are intended to be a guide only in demonstrating some of the evidence that established the facts in point. It is not intended to show the degree of importance or the totality of the evidence relied upon.

1. Responsibility for the enforcement of the Drug Abuse Control Amendments of 1965 was transferred from the Food and Drug Administration to the Bureau of Narcotics and Dangerous Drugs on April 8, 1968, by Presidential Reorganization Plan No. 1 of 1968.
2. GD Exhibit No. 1.
3. Seevers Deposition p. 15; GD Exhibit No. 1, p. 1; Merck Index p. 663.
4. Merck Index p. 787; GD Exhibit No. 1.
5. Seevers Deposition pp. 15–18; GD Exhibit No. 1, p. 1; Merck Index p. 625.
6. Seevers Deposition p. 15; Hollister Deposition p. 7.
7. GD Exhibit No. 1, pp. 9–12; Seevers Deposition pp. 15–18.
8. TR. p. 233.
9. GD Exhibit No. 1, p. 32.
10. Seevers Deposition pp. 15–18; GD Exhibit No. 1.
11. Seevers Deposition pp. 12–13.
12. TR. p. 57.
13. Seevers Deposition p. 10.
14. Seevers Deposition pp. 38–40; Hollister Deposition pp. 34–36, pp. 40–42.
15. Hollister Deposition pp. 13–16; TR. pp. 228–232.
16. Seevers Deposition p. 38.
17. TR. p. 464, pp. 758–769, pp. 771–773.
18. TR. p. 471.
19. TR. p. 670.
20. Government Exhibit No. 7; Government Exhibit No. 8; Government Exhibit No. 9; Government Exhibit No. 10; GD No. 2; GD No. 3; GD No. 6; TR. p. 764, pp. 589–594.
21. Ibid.: Hollister Deposition pp. 7–14; Winkler Deposition pp. 4–19, p. 31; TR. p. 824.
22. TR. p. 464, pp. 467–468, pp. 588–594, pp. 758–769, pp. 917–920.
23. Government Exhibit No. 11; Government Exhibit No. 12; Government Exhibit No. 13.
24. TR. p. 613.
25. TR. pp. 758–769.
26. TR. pp. 611–614, pp. 761–769.
27. Seevers Deposition pp. 69–70; TR. pp. 611–614.
28. Seevers Deposition pp. 46–49; TR. pp. 616–618.
29. TR. p. 551.
30. TR. p. 652.
31. TR. pp. 551–552, p. 558, pp. 606–608, pp. 650–651.
32. TR. pp. 606–608, pp. 650–651, pp. 615–619; TR. pp. 874–876.
33. TR. p. 551, p. 553, pp. 650–653.
34. TR. pp. 615–619.
35. Winkler Deposition pp. 4–7; Hollister Deposition pp. 7–9, p. 13.
36. TR. pp. 874–876.
37. TR. pp. 594–597, pp. 612–614; Winkler Deposition pp. 8–19; Hollister Deposition pp. 7–9, pp. 13–14.
38. TR. pp. 615–619.
39. TR. p. 471, pp. 613–619, p. 640.
40. TR. pp. 351–431, pp. 463–464, p. 612, pp. 619–632, pp. 822–830; Petitioners Exhibit No. 7; Petitioners Exhibit No. 8; Petitioners Exhibit No. 9; Petitioners Exhibit No. 10; Government Exhibit No. 5; H. Smith Deposition pp. 13–18, pp. 23–25, pp. 32–38.
41. Petitioners Exhibit No. 11; Petitioners Exhibit No. 12; TR. pp. 370–395.
42. TR. pp. 370–384.
43. Hollister Deposition p. 11; Aiken Affidavit in Petition, p. 7, pp. 12–13; TR. p. 388, pp. 596–598, pp. 600–605, p. 910.
44. Seevers Deposition pp. 46–49; Winkler Deposition pp. 8–12, p. 33; TR. pp. 295–302, pp. 446–447, pp. 461–463, pp. 876–884.
45. Winkler Deposition pp. 8–12, pp. 33–34; Hollister Deposition pp. 36–40; TR. pp. 214–218, pp. 295–301, p. 448, p. 604, pp. 876–887.
46. Seevers Deposition pp. 46–49; Winkler Deposition pp. 8–12; TR. pp. 446–463, pp. 608–612.
47. TR. 210–214, p. 478.
48. Aiken Affidavit in Petition pp. 11–18; TR. p. 133, p. 179, pp. 188–191.
49. H. Smith Deposition pp. 27–29, pp. 38–42.
50. TR. pp. 182–183.
51. TR. pp. 183–186, pp. 220–222.
52. TR. pp. 183–186, pp. 220–222, pp. 545–554, p. 911; Government Exhibit No. 2.
53. TR. p. 180, p. 913.
54. TR. pp. 197–198, pp. 544–548.
55. TR. p. 180, pp. 188–189, pp. 203–210, pp. 221–222.
56. H. Smith Deposition pp. 43–44; TR. pp. 203–210, pp. 221–222, pp. 544–548.
57. TR. p. 140, p. 290; H. Smith Deposition pp. 57–68.
58. TR. p. 141, p. 247; H. Smith Deposition pp. 41–42, p. 51, p. 60.
59. TR. pp. 249–250, pp. 920–921.
60. TR. pp. 144–145, pp. 247–248, p. 903.
61. TR. p. 134, p. 177, p. 183.
62. H. Smith Deposition pp. 61–68.
63. TR. p. 173, pp. 213–214, p. 325.
64. TR. pp. 214–218, pp. 295–301, pp. 877–884.
65. TR. p. 325, pp. 877–884.
66. TR. pp. 214–218, pp. 295–301, pp. 877–884.
67. TR. pp. 156–171, pp. 174–175, pp. 877–884; Petitioners Exhibit No. 4; Petitioners Exhibit No. 5; Aiken Affidavit in Petition pp. 7–8, p. 12.
68. Aiken Affidavit in Petition p. 7.
69. TR. p. 915.
70. TR. pp. 194–202, pp. 646–647, p. 593, p. 325.
71. TR. p. 175; Petitioners Exhibit No. 5; Aiken Affidavit in Petition pp. 7–8, p. 12.
72. TR. pp. 102–103, pp. 139–140, pp. 212–213, p. 326, p. 454; H. Smith Deposition p. 49; Petitioners Exhibit No. 5.
73. TR. p. 145, p. 180, pp. 203–210, pp. 221–222, p. 238, p. 294, pp. 544–546, p. 621, pp. 913–915; H. Smith Deposition p. 50.
74. TR. pp. 104–111, pp. 240–242, pp. 266–277, pp. 487–488, p. 702, pp. 707–710; H. Smith Deposition pp. 41–49; Government Exhibit No. 13; Government Exhibit No. 12; Government Exhibit No. 11.
75. TR. pp. 580–581, pp. 675–697, pp. 806–818; U.S. Constitution Article I, Section 8, Chapter 3.
76. TR. pp. 782–783, pp. 787–789.

The report, findings of fact, conclusions, and recommendations of the hearing examiner were accepted in their entirety by the Director of the Bureau of Narcotics and Dangerous Drugs and published in the FEDERAL REGISTER of February 12, 1970 (35 F.R. 2874) as part of

the proposed findings of fact and conclusions and the tentative order of the Director denying the petition of the Church of the Awakening.

In response to the tentative order the Church of the Awakening requested an opportunity to reopen the hearing for the purpose of recross-examining one of the Government's witnesses and for submitting two additional exhibits. This request was granted and the hearing was held on July 1, 1970. It was the finding of the hearing examiner, after reviewing and evaluating the testimony elicited and the two exhibits submitted by the petitioner, that the additional evidence does not in any way change his previous findings of fact, conclusions and recommendations. After reviewing the new evidence it is the decision of the Director to accept the finding of the hearing examiner.

Therefore, it is ordered, that it is the decision of the Director of the Bureau of Narcotics and Dangerous Drugs that the petition of the Church of the Awakening is denied.

At the supplemental hearing on July 1, 1970, the hearing examiner stated that the petitioner would have 30 days to comment upon the above findings, conclusions and decision. (Tr. pages 857–859.) Therefore, this order will not take effect until after further publication in the FEDERAL REGISTER. Such publication shall not take place until 30 days from the date of publication of this notice.

Dated: September 10, 1970.

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

[F.R. Doc. 70-12663; Filed, Sept. 22, 1970; 8:51 a.m.]

INTERIOR DEPARTMENT

Bureau of Land Management

[Sacramento 3615]

CALIFORNIA

Opening of Lands From Waterpower Withdrawals

SEPTEMBER 14, 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 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 a determination dated February 2, 1970, the Federal Power Commission vacated the withdrawals created pursuant to the filings on December 6, 1926, October 5, 1927, November 28, 1928, and May 12, 1932, of applications for preliminary permit and license for Project No. 761 insofar as they pertain to the following described lands:

MOUNT DIABLO MERIDIAN

T. 1 N., R. 16 E.,
Sec. 29, lots 2 and 3, W½NE¼, E½NW¼, NE¼SW¼, and S½SW¼.

T. 1 S., R. 15 E.,
Sec. 1, lot 17 (formerly part of lot 5);
Sec. 3, N½SW¼;
Sec. 4, lots 16, 17, 18, 22, and 24;
Sec. 9, lot 3;
Sec. 10, N½NE¼;
Sec. 11, lots 3 and 4;
Sec. 18, lot 4;
Sec. 19, S½ of lot 10 and NW¼SE¼;
Sec. 20, lot 12, unpatented portion of SE¼NE¼ (formerly a part of lot 1), unpatented portion of NW¼SE¼, unpatented portion of NE¼SE¼ (formerly a part of lot 2);
Sec. 21, lots 3 and 19;
Sec. 27, NW¼SW¼.

T. 1 S., R. 16 E.
Sec. 4, SW¼NE¼ and E½SW¼ (unsurveyed);
Sec. 6, lot 5;
Sec. 9, lots 1 and 2;
Sec. 24, SW¼SE¼.

T. 1 S., R. 17 E.,
Sec. 26, S½SW¼ and SW¼SE¼;
Sec. 27, S½S½;
Sec. 28, N½SE¼SE¼;
Sec. 30, lot 2, SE¼NW¼, NW½SE¼, and S½SE¼;
Sec. 31, NE¼;
Sec. 32, lots 1 and 2, and SE¼NE¼;
Sec. 33, NW¼NW¼NE¼;
Sec. 35, N½NE¼, SE¼NE¼, and NE¼NW¼;
Sec. 36, N½NW¼ and SW¼NW¼.

T. 1 S., R. 18 E.,
Sec. 14, SW¼SE¼;
Sec. 22, SE¼SW¼, NE¼SE¼, NE¼NW¼SE¼, E½NW¼NW¼SE¼, S½NW¼SE¼, and S½SE¼;
Sec. 23, W½NE¼, NE¼NW¼, S½NW¼, N½SW¼, SW¼SW¼, and NW¼SE¼;
Sec. 27, N½NE¼, SW¼NE¼, NE¼NW¼, S½NW¼, N½SW¼, and SW¼SW¼;
Sec. 28, NE¼SE¼ and S½SE¼;
Sec. 29, NW¼SW¼;
Sec. 30, NE¼SW¼ and N½SE¼;
Sec. 33, W½ of lot 2 and N½NE¼;
Sec. 34, N½N½.

The areas described aggregate approximately 4,188 acres in Tuolumne County. Of these lands approximately 327.62 acres are nonpublic lands, approximately 811.68 acres are public lands, and approximately 3,048 acres are in the Stanislaus National Forest. Some of the lands have power value variously withdrawn in powersite reserves, powersite classifications, and other power projects. Such withdrawals will in no way be affected by the vacation and restoration of the lands withdrawn for Power Project No. 761.

2. Public Land Order No. 1633 of May 8, 1958, revoked in part, Executive Order No. 4203 of April 14, 1925, which withdrew land in California and Nevada in aid of classification for national forest status under the Act of February 20, 1925 (43 Stat. 952). The SW¼NE¼ and SE¼SW¼ sec. 4, T. 1 S., R. 16 E. described in paragraph 1 were not included in the restoration made by Public Land Order No. 1633 and are hereby restored to the operation of the public land laws, including location under the U.S. mining laws (30 U.S.C., Ch. 2) for nonmetalliferous materials, subject to any valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, rules, and regulations as of 10 a.m. on October 19, 1970. The lands have been open to applications and offers under the mineral leasing laws and to location for metalliferous minerals. It will be open to location for nonmetalliferous materials under the U.S. mining laws at 10 a.m. on October 19, 1970.

3. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the public lands described in paragraph 1 hereof will, at 10 a.m. October 19, 1970, be opened to application, petition, location, and selection under the public land laws generally.

4. At 10 a.m. on October 19, 1970, the national forest lands described in paragraph 1 hereof shall be opened 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.

All valid applications received at or prior to 10 a.m. on October 19, 1970, will be considered as simultaneously filed at that time. Those received thereafter shall be considered in order of filing.

The State of California has waived the preference right afforded it under section 24 of the Federal Power Act, supra.

All lands not otherwise withdrawn or reserved have been open to applications and offers under the mineral leasing laws, and to location under the U.S. mining laws subject to provisions of the Act of August 11, 1955 (69 Stat. 681; 30 U.S.C. 621).

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. 70-12631; Filed, Sept. 22, 1970; 8:49 a.m.]

NEW MEXICO

Modification of Grazing District No. 1

SEPTEMBER 11, 1970.

By virtue of the authority contained in the Act of June 28, 1934 (48 Stat. 1269; 43 U.S.C. 315, et seq.), as amended, and pursuant to authority delegated in 235 D.M. 1.1 (30 F.R. 4643), the boundaries of New Mexico Grazing District No. 1 are hereby modified as follows:

1. The following-described lands are hereby eliminated from New Mexico Grazing District No. 1:

NEW MEXICO PRINCIPAL MERIDIAN

T. 18 N., R. 3 W.,
Secs. 4 to 9, inclusive;
Secs. 16 to 21, inclusive;
Secs. 28, 29, and 30.
T. 19 N., R. 3 W.,
Sec. 6, SW¼;
Sec. 7, S½NE¼, W½, and SE¼;
Secs. 18 to 21, inclusive;
Secs. 28 to 33, inclusive.
T. 17 N., R. 4 W.,
Secs. 2 to 10, inclusive;
Sec. 11, N½, SW¼, and NW¼SE¼;
Secs. 17 to 20, inclusive;
Sec. 29, N½;
Sec. 30.
Tps. 18 and 19 N., R. 4 W.

T. 20 N., R. 4 W.,
Secs. 4 to 9, inclusive;
Sec. 10, S½NE¼, W½, and SE¼;
Secs. 15 to 22, inclusive;
Secs. 27 to 34, inclusive.
T. 17 N., R. 5 W.,
Secs. 1, 2, 3, and 4;
Secs. 11 to 14, inclusive;
Secs. 23 to 26, inclusive.
T. 18 N., R. 5 W.,
Secs. 1 to 5, inclusive;
Secs. 7 to 17, inclusive;
Sec. 18, N½, N½S½, and SW¼SW¼;
Sec. 19, E½NE¼;
Sec. 20, N½, N½S½, and S½SE¼;
Secs. 21 to 28, inclusive;
Sec. 33, NE¼, E½NW¼, and S½;
Secs. 34, 35, and 36.
T. 19 N., R. 5 W.,
Secs. 1 to 18, inclusive;
Secs. 20 to 28, inclusive;
Secs. 32 to 36, inclusive.
T. 20 N., R. 5 W.
T. 20 N., R. 6 W.,
Secs. 1, 12, and 13;
Sec. 14, S½NE¼ and S½;
Secs. 24 and 25.
T. 25 N., R. 9 W.,
Sec. 5, S½;
Sec. 6, S½;
Secs. 7 and 8;
Secs. 17 to 20, inclusive;
Secs. 29 and 30.
T. 23 N., R. 10 W.,
Sec. 2, lot 4 and SW¼NW¼;
Secs. 3 to 9, inclusive;
Sec. 10, W½NE¼ and W½.
T. 24 N., R. 10 W.,
Secs. 2 to 11, inclusive;
Secs. 14 to 22, inclusive;
Sec. 23, W½NE¼ and W½;
Sec. 26, W½;
Secs. 27 to 34, inclusive;
Sec. 35, W½.
T. 25 N., R. 10 W.,
Sec. 1, lots 3, 4, S½NW¼ and S½;
Secs. 2 to 35, inclusive.
T. 23 N., R. 11 W.,
Sec. 1;
Sec. 11, S½;
Sec. 12;
Sec. 13, W½;
Sec. 14.
T. 24 N., R. 11 W.,
Secs. 1 to 16, inclusive;
Sec. 17, N½ and SE¼;
Sec. 18, N½N½;
Sec. 20, E½NE¼;
Sec. 21, N½;
Secs. 22 to 27, inclusive;
Sec. 36.
T. 25 N., R. 11 W.
T. 26 N., R. 11 W.,
Secs. 4 to 8, inclusive;
Sec. 9, W½;
Sec. 16, W½;
Secs. 17 to 20, inclusive;
Sec. 21, W½;
Sec. 22, S½SE¼;
Sec. 23, NE¼, S½NW¼, and S½;
Secs. 24, 25, and 26;
Sec. 27, E½;
Sec. 28, W½;
Secs. 29 to 36, inclusive.
T. 27 N., R. 11 W.,
Sec. 2, lots 3 and 4;
Sec. 3, lots 1, 2, 3, 4, SW¼NE¼ and S½NW¼;
Sec. 4, lots 1, 2, 3, S½NE¼ and SE¼NW¼;
Sec. 32, SW¼.
T. 28 N., R. 11 W.,
Secs. 7 to 10, inclusive, fractional;
Sec. 11, lots 2, 3, 4, S½SW¼ and SW¼SE¼;
Sec. 14, NW¼NE¼ and N½NW¼;
Secs. 15 to 22, inclusive;
Sec. 26, NW¼NW¼, S½NW¼, and S½;
Secs. 27 to 35, inclusive.
T. 29 N., R. 11 W.,
Sec. 27, S½;
Sec. 28, S½;
Secs. 31 to 34, inclusive;
Sec. 35, W½W½.
T. 22 N., R. 12 W.,
Sec. 1.
T. 24 N., R. 12 W.,
Secs. 1 to 8, inclusive;
Sec. 9, lots 3, 4, 5, 6, 11, 12, 13, and 14;
Sec. 12;
Sec. 18, lots 7, 8, 9, and 10.
Tps. 25 and 26 N., R. 12 W.
T. 27 N., R. 12 W.,
Secs. 6, 7, and 18;
Sec. 19, N½;
Sec. 27, S½;
Sec. 28, S½;
Sec. 29, S½;
Sec. 30, SE¼SW¼ and SE¼;
Secs. 31 to 36, inclusive.
T. 28 N., R. 12 W.,
Sec. 8, lots 1, 2, and S½SE¼;
Sec. 9, fractional;
Sec. 13, E½ and E½NW¼;
Sec. 16;
Sec. 17, NE¼, E½NW¼, and S½;
Sec. 18, E½SE¼;
Sec. 19, NE¼, SE¼NW¼, and S½;
Secs. 20, 21, and 22;
Sec. 23, NW¼ and S½;
Sec. 24, S½;
Secs. 25 to 36, inclusive.
T. 29 N., R. 12 W.,
Sec. 32;
Sec. 33, W½.
T. 24 N., R. 13W.,
Secs. 1 and 12;
Sec. 13, N½.
T. 25 N., R. 13 W.,
Sec. 8, S½;
Sec. 10, SE¼NE¼, E½SW¼NE½, E½W½SE¼, and E½SE¼;
Sec. 11, S½N½ and S½;
Sec. 12, S½N½ and S½;
Secs. 13, 14, and 15;
Sec. 17;
Secs. 20 to 25, inclusive;
Secs. 35 and 36.
T. 26 N., R. 13 W.,
Sec. 1, SE¼;
Secs. 12 and 13;
Sec. 24, N½.
T. 27 N., R. 13 W.,
Secs. 1 and 2;
Sec. 10, E½SE¼;
Secs. 11 to 14, inclusive;
Sec. 15, E½E½;
Sec. 22, E½NE¼;
Sec. 23, N½;
Sec. 24, N½.
T. 28 N., R. 13 W.,
Secs. 8, 9, and 10, fractional;
Sec. 11, lot 4;
Sec. 15, W½NE¼, W½, and SW¼SE¼;
Secs. 16 and 17;
Sec. 22, NW¼NE¼, S½NE¼, E½NW¼ and SE¼;
Sec. 23, SW¼NW¼, SW¼ and S½SE¼;
Sec. 24, S½S½;
Secs. 25 and 26;
Sec. 27, E½;
Sec. 34, E½;
Secs. 35 and 36.
T. 29 N., R. 13 W.,
Secs. 16 to 21, inclusive;
Sec. 27, W½;
Secs. 28 to 33, inclusive;
Sec. 34, W½.
T. 30 N., R. 16 W.,
Sec. 11, SE¼SE¼.

The areas described aggregate approximately 389,500 acres.

JOHN O. CROW,
Associate Director.

[F.R. Doc. 70-12632; Filed, Sept. 22, 1970; 8:49 a.m.]

Geological Survey

[Order No. 10]

MONTANA

Phosphate Land Classification

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and as delegated to me by Departmental Order 2563, May 2, 1950, under authority of Reorganization Plan No. 3 of 1950 (64 Stat. 1262), the following described lands, insofar as title thereto remains in the United States, are hereby classified as shown:

PRINCIPAL MERIDIAN, MONTANA

Phosphate Lands:

T. 1 N., R. 11 W.,
Sec. 5, S½SW¼;
Sec. 6, lots 3 to 5, inclusive, SE¼NW¼, E½SW¼, S½SE¼;
Sec. 7, N½NE¼, SE¼NE¼, NE¼SE¼;
Sec. 8;
Sec. 9, SW¼NW¼, W½SW¼;
Sec. 15, SW¼SW¼;
Sec. 16, W½, S½SE¼;
Sec. 17;
Sec. 18, S½NE¼, SE¼;
Sec. 19, NE¼, E½NW¼, NE¼SW¼, N½SE¼, SE¼SE¼;
Sec. 20, N½NE¼, SE¼NE¼, NW¼NW¼, S½NW¼, S½;
Sec. 21, N½, SW¼, N½SE¼, SE¼SE¼;
Sec. 22, W½, SW¼SE¼;
Sec. 23, SW¼, NW¼SE¼, S½SE¼;
Sec. 24, NW¼NE¼, S½NE¼, W½, SE¼;
Sec. 25, N½, N½SW¼, SW¼SW¼, N½SE¼;
Sec. 26;
Sec. 27, NW¼NE¼, S½NE¼, NW¼, NE¼SW¼, SE¼;
Sec. 28, N½, N½SW¼, SE¼SW¼, NW¼SE¼, S½SE¼;
Sec. 29, NE¼, N½NW¼, SE¼NW¼, NE¼SE¼;
Sec. 33, NE¼NE¼;
Sec. 34, NE¼NE¼;
Sec. 35, N½, NE¼SW¼, N½SE¼;
Sec. 36, W½NW¼.

Reclassified Phosphate Lands from Nonphosphate Lands:

Prior classification of the following lands as nonphosphate lands is hereby revoked and the lands are reclassified phosphate lands:

T. 1 N., R. 11 W.,
Sec. 36, N½SW¼.

Nonphosphate Lands:

T. 1 N., R. 11 W.,
Sec. 20, SW¼NE¼, NE¼NW¼;
Sec. 21, SW¼SE¼;
Sec. 27, NE¼NE¼, NW¼SW¼, S½SW¼;
Sec. 28, SW¼SW¼, NE¼SE¼;
Sec. 29, SW¼NW¼, SW¼, NW¼SE¼, S½SE¼;
Sec. 30;
Sec. 31, NE¼, NE¼NW¼, NE¼SE¼;
Sec. 32;
Sec. 33, NW¼NE¼, S½NE¼, NW¼, S½;
Sec. 34, NW¼NE¼, S½NE¼, NW¼, S½;
Sec. 35, NW¼SW¼, S½S½.
T. 1 S., R. 11 W.,
Secs. 2 and 3;
Sec. 10, lots 1 and 2, NE¼, E½NW¼, NE¼SW¼, SE¼;
Sec. 11;
Sec. 14, N½, NE¼SW¼, SE¼;
Sec. 15, NE¼NE¼;
Sec. 23, NE¼NE¼;
H.E.S. 46, that part lying within Secs. 3 and 10;
H.E.S. 223, that part lying within Sec. 3.

The area described aggregates 15,028 acres, more or less, of which about 8,402 acres are classified phosphate lands; about 80 acres which were formerly classified nonphosphate lands are reclassified phosphate lands; and about 6,546 acres are classified nonphosphate lands.

Dated: September 16, 1970.

W. A. RADLINSKI,
Acting Director.

[F.R. Doc. 70-12630; Filed, Sept. 22, 1970; 8:48 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

AMERICAN OIL CO.

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d)(1), 68 Stat. 512; 21 U.S.C. 346a (d)(1)), notice is given that a petition (PP OF0924) has been filed by the American Oil Co., 910 South Michigan Avenue, Chicago, Ill. 60680, proposing exemption from the requirement of tolerances (21 CFR Part 120) for residues of the calcium and sodium salts of certain sulfonated petroleum fractions (mahogany soaps) when used in accordance with good agricultural practice as inert ingredients in pesticide formulations applied to growing crops or to animals.

The analytical method proposed in the petition for determining residues of the salts is a colorimetric procedure in which the residues are passed through a silica gel column to adsorb the salts and remove interfering materials. The salts are eluted, decolorized with hydrogen peroxide, evaporated to dryness, dissolved in methanol, and filtered. The filtrate is evaporated to dryness and analyzed by titration with a standard quarternary ammonium solution using a suitable colorimetric indicator.

Dated: September 11, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70-12599; Filed, Sept. 22, 1970; 8:46 a.m.]

[DOCKET No. FDC-D-232; NADA No. 11-506V]

CIBA PHARMACEUTICAL CO.

Ultracortenol; Notice of Opportunity for Hearing

An announcement published in the FEDERAL REGISTER of April 12, 1969 (34 F.R. 6447), invited the holder of new animal drug application No. 11-506V for Ultracortenol (a drug product containing prednisolone trimethylacetate), and any other interested person, to submit pertinent data on the drug's effectiveness. No efficacy data were submitted in response to the announcement and available information still does not provide substantial evidence of effectiveness of the drug for its recommended use for the treatment of shock syndrome in cattle (downer cows).

Therefore, notice is given to CIBA Pharmaceutical Co., 556 Morris Avenue, Summit, N.J. 07901, and to any interested person who may be adversely affected, that the Commissioner of Food and Drugs proposes to issue an order under section 512(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360 b(e)), withdrawing approval of new animal drug application No. 11-506V and all amendments and supplements thereto held by CIBA Pharmaceutical Co., for the drug Ultracortenol on the grounds that:

Information before the Commissioner with respect to the drug, evaluated together with the evidence available to him when the application was approved, does not provide substantial evidence that the drug has 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 512 of the act (21 U.S.C. 360b), the Commissioner will give the applicant, and any interested person who may be adversely affected by an order withdrawing such approval, an opportunity for a hearing at which time such persons may produce evidence and arguments to show why approval of new animal drug application No. 11-506V should not be withdrawn. Promulgation of the order will cause any drug similar in composition to Ultracortenol, and recommended for conditions of use similar to those recommended for Ultracortenol, to be a new animal drug for which an approved new animal 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, Office of the General Counsel, 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 the approval of the new animal 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 which the Commissioner finds is 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 a written appearance requesting the hearing and giving the reasons why approval of the new animal 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. 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 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 applicant otherwise agree.

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

Dated: September 9, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70-12600; Filed, Sept. 22, 1970; 8:46 a.m.]

[Docket No. FDC-D-198; NDA No. 9-964]

E. FOUGERA & CO., INC.

Visciodol Suspension; Notice of Withdrawal of Approval of New-Drug Application

A notice of opportunity for hearing on the proposed withdrawal of approval of new-drug application No. 9-964 and all amendments and supplements thereto held by E. Fougera & Co., Inc., Hicksville, N.Y. 11802, for the drug Visciodol Suspension (iodized oil and 320 milligrams sulfanilamide per milliliter) was published in the FEDERAL REGISTER on July 22, 1970 (35 F.R. 11717). E. Fougera & Co., Inc., filed a written appearance electing not to avail itself of the opportunity for a hearing.

The Commissioner of Food and Drugs, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505(e); 52 Stat. 1052 as amended; 21 U.S.C. 355(e)) and under authority delegated to him (21 CFR 2.120), finds that new evidence of clinical experience, not contained in the application or not available until after the application was approved, evaluated together with the evidence available when the application was approved, shows that such drug is

not shown to be safe for use under the conditions of use upon the basis of which the application was approved; and on the basis of new information before him with respect to such drug, evaluated together with the evidence available when the application was approved, 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 the labeling thereof.

Therefore, pursuant to the foregoing finding, approval of new-drug application No. 9–964 and all amendments and supplements thereto applying to Visciodol Suspension is withdrawn effective on the date of signature of this document.

Dated: September 11, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70–12601; Filed, Sept. 22, 1970; 8:46 a.m.]

INTERNATIONAL MINERALS AND CHEMICAL CORP.

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a (d)(1)), notice is given that a petition (PP 1F1015) has been filed by International Minerals and Chemical Corp., Libertyville, Ill. 60048, proposing the establishment of tolerances (21 CFR Part 120) for negligible residues of the plant regulator 2,3,5-triiodobenzoic acid and/or its dimethylamine salt (calculated as 2,3,5-triiodobenzoic acid) in or on the raw agricultural commodities peanuts and peanut hay and hulls at 0.15 part per million.

The analytical method proposed in the petition for determining residues of 2,3,5-triiodobenzoic acid consists of extraction with ethanol, purification by combination of acid-base shift and ether extraction, followed by conversion to the methyl ester with diazomethane. The residue is identified and measured by gas chromatography using an electron capture detection system.

Dated: September 11, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70–12602; Filed, Sept. 22, 1970; 8:46 a.m.]

[Docket No. FDC–D–168; NADA No. 8–177V, 9–602V]

JENSEN-SALSBERY LABORATORIES

Cycloderm Creme and Cycloderm Lotion; Notice of Withdrawal of Approval of New Animal Drug Application

A notice of opportunity for a hearing on the matter of withdrawing the approvals of new animal drug application No. 8–177V for Cycloderm Creme and new animal drug application No. 9–602V for Cycloderm Lotion was published in the FEDERAL REGISTER of June 20, 1970 (35 F.R. 10164).

Jensen-Salsbery Laboratories, Division of Richardson-Merrell Inc., 520 West 21st Street, Kansas City, Mo. 64141, holder of said new animal drug applications covering said drugs, did not file a written appearance of election regarding whether they wished to avail themselves of the opportunity for a hearing within the 30-day period provided for in said notice. This is construed as an election by said firm not to avail themselves of the opportunity for a hearing.

Based on the grounds set forth in said notice and the response to said notice, the Commissioner of Food and Drugs concludes that the approvals of new animal drug applications No. 8–177V and 9–602V should be withdrawn. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512 (e), 82 Stat. 345–47; 21 U.S.C. 360b(e)) and under authority delegated to the Commissioner (21 CFR 2.120), the approvals of new animal drug applications No. 8–177V and 9–602V including all amendments and supplements thereto are hereby withdrawn effective on the date of signature of this document.

Dated: September 11, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70–12604; Filed, Sept. 22, 1970; 8:46 a.m.]

M & T CHEMICALS, INC. AND DOW CHEMICAL CO.

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d)(1), 68 Stat. 512; 21 U.S.C. 346a (d)(1)), notice is given that a petition (PP 0F1005) has been filed jointly by M & T Chemicals, Inc., Post Office Box 1104, Rahway, N.J. 07065, and The Dow Chemical Co., Post Office Box 512, Midland, Mich. 48640, proposing the establishment of tolerances (21 CFR Part 120) for residues of the insecticide tricyclohexyltin hydroxide including its metabolites (calculated as tricyclohexyltin hydroxide) in or on the raw agricultural commodities apples and pears at 2 parts per million.

The analytical method proposed in the petition for determining residues of the insecticide is a procedure where the tin is converted to an inorganic form measurable by the dithiol colorimetric method at 530 millimicrons.

Dated: September 11, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70–12603; Filed, Sept. 22, 1970; 8:46 a.m.]

NO-CAL CORP. AND COTT CORP.

Notice of Filing of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 1A2573) has been filed by No-Cal Corp., 921 Flushing Avenue, Brooklyn, N.Y. 11206, and Cott Corp., 197 Chatham Street, New Haven, Conn. 06513, proposing the issuance of a food additive regulation (21 CFR 121) to provide for the safe use of glycine as a flavor modifier for saccharine in beverages.

Dated: September 11, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70–12612; Filed, Sept. 12, 1970; 8:47 a.m.]

VIOBIN CORP.

Notice of Withdrawal of Petition for Food Additives

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), VioBin Corp., 226 West Livingston Street, Monticello, Ill. 61856, has withdrawn its petition (FAP 0A2488), notice of which was published in the FEDERAL REGISTER of January 29, 1970 (35 F.R. 1177), proposing that § 121.1202 *Whole fish protein concentrate* (21 CFR 121.1202) be amended to provide for the safe use of whole fish protein concentrate prepared from certain species of fish.

Dated: September 11, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70–12605; Filed, Sept. 22, 1970; 8:46 a.m.]

[DESI 5509]

[Docket No. FDC–D–186; NDA 5–509, etc.]

CERTAIN ANTICOAGULANT DRUGS CONTAINING SODIUM OR POTASSIUM WARFARIN; DIPHENADIONE; PHENPROCOUMON; PHENINDIONE; BISHYDROXYCOUMARIN; ANISINDIONE; ETHYL BISCOUMACETATE; OR ACENOCOUMAROL

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following anticoagulant drugs for oral or parenteral use:

1.a. Coumadin Injection and

b. Coumadin Tablets, both containing sodium warfarin and marketed by Endo Laboratories, Inc., 1000 Stewart Avenue, Garden City, N.Y. 11533 (NDA 9–218).

2.a. Athrombin Tablets containing sodium warfarin and

b. Athrombin-K Tablets containing potassium warfarin, both marketed by The Purdue Frederick Co., 99–101 Saw Mill River Road, Yonkers, N.Y. 10701 (NDA 11–771).

3. Dipaxin Tablets containing diphenadione, marketed by The Upjohn Co., 7171 Portage Road, Kalamazoo, Mich. 49002 (NDA 9–751).

4. Liquamar Tablets containing phenprocoumon, marketed by Organon, Inc., 375 Mount Pleasant Avenue, West Orange, N.J. 07052 (NDA 11–228).

5. Hedulin Tablets containing phenindione, marketed by Walker Laboratories, Division of Richardson-Merrell, Inc., Bradford Road, Mount Vernon, N.Y. 10551 (NDA 8–767).

6. Danilone Tablets containing phenindione, marketed by Schieffelin and Co., Box 8, Apex, N.C. 27502 (NDA 8–700).

7. Dicumarol Tablets containing bishydroxycoumarin, marketed by Abbott Laboratories, Inc., 14th and Sheridan Road, North Chicago, Ill. 60064 (NDA 5–545).

8. Dicumarol Pulvules containing bishydroxycoumarin, marketed by Eli Lilly and Co., Post Office Box 618, Indianapolis, Ind. 46206 (NDA 5–509).

9. Miradon Tablets containing anisindione, marketed by Schering Corp., 60 Orange Street, Bloomfield, N.J. 07003 (NDA 10–909).

10. Tromexan Tablets containing ethyl biscoumacetate, marketed by Geigy Pharmaceuticals, Division Geigy Chemical Corp., Saw Mill River Road, Ardsley, N.Y. 10502 (NDA 7–542).

11. Sintron Tablets containing acenocoumarol, Geigy Pharmaceuticals (NDA 10–759).

The drugs are regarded as new drugs (21 U.S.C. 321 (p)). Supplemental new-drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. A new-drug application is required from any person marketing such drugs without approval.

The Food and Drug Administration is prepared to approve new-drug applications and supplements to previously approved new-drug applications under conditions described in this announcement.

SODIUM WARFARIN; POTASSIUM WARFARIN; DIPHENADIONE; PHENPROCOUMON; PHENINDIONE; BISHYDROXYCOUMARIN; ANISINDIONE; ETHYL BISCOUMACETATE; AND ACENOCOUMAROL

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy reports, as well as other available evidence, and concludes that:

1. These drugs are effective anticoagulants for the prophylaxis and treatment of venous thrombosis and its extension, the treatment of atrial fibrillation with embolization, and the prophylaxis and treatment of pulmonary embolism.

2. These drugs are probably effective for use as an adjunct in the treatment of coronary occlusion.

3. These anticoagulant drugs lack substantial evidence of effectiveness for use in the treatment of cerebral thrombosis.

4. These drugs are possibly effective for other labeled indications.

B. *Form of drug.* These drug preparations are in a form suitable for parenteral or oral administration.

C. *Labeling conditions.* 1. The label bears the statement "Caution: Federal law prohibits dispensing without prescription."

2. The drug is labeled to comply with all requirements of the Act and regulations. The labeling bears adequate information for safe and effective use of the drug and is in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970. The "Indications" section is as follows:

INDICATIONS

This drug is indicated for the prophylaxis and treatment of venous thrombosis and its extension, the treatment of atrial fibrillation with embolization, and the prophylaxis and treatment of pulmonary embolism. It may also be useful as an adjunct in the treatment of coronary occlusion.

D. *Indications permitted during extended period for obtaining substantial evidence.* 1. The indication for which the drugs are described in paragraph A.2. above as probably effective is included in the labeling conditions in paragraph C and may continue to be used for 12 months following the date of this publication to allow additional time within which holders of previously approved applications or persons marketing the drugs without approval may obtain and submit to the Food and Drug Administration data to provide substantial evidence of effectiveness.

2. Those indications for which the drugs are regarded as possibly effective (not included in the labeling conditions in paragraph C) may continue to be used for 6 months following the date of this publication to allow additional time within which holders of previously approved applications or persons marketing the drug without approval may obtain and submit to the Food and Drug Administration data to provide substantial evidence of effectiveness.

To be acceptable for consideration in support of the effectiveness of a drug, any such data must be previously unsubmitted, well-organized, and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in § 130.12 (a)(5) of the regulations published as a final order in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for the approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

E. *Marketing status.* Marketing of the drugs may continue under the conditions described in paragraphs F and G of this announcement except that those indications referenced in paragraph D may continue to be used as described therein.

F. *Previously approved applications.* 1. Each holder of a "deemed approved" new-drug application (i.e., an application which became effective on the basis of safety prior to Oct. 10, 1962) for such drug is requested to seek approval of the claims of effectiveness and bring the application into conformance by submitting supplements containing:

a. Revised labeling as needed to conform with the labeling conditions described herein for the drug and complete current container labeling, unless recently submitted.

b. Updating information as needed to make the application current.

2. Such supplements should be submitted within the following time periods after the date of publication of this announcement in the FEDERAL REGISTER:

a. 60 days for revised labeling. The supplement should be submitted under the provisions of § 130.9 (d) and (e) of the new-drug regulations (21 CFR 130.9) which permit certain changes to be put into effect at the earliest possible time.

b. 60 days for updating information.

3. Marketing of the drug may continue until the supplemental applications submitted in accord with the preceding subparagraphs 1 and 2 are acted upon, provided that, within 60 days after the date of this publication, the labeling of this preparation shipped within the jurisdiction of the Act is in accord with the labeling conditions described in this announcement. (It may continue to include the indications referenced in paragraph D for the period stated.)

G. *New applications.* 1. Any other person who distributes or intends to distribute such drug which is intended for the conditions of use for which it has been shown to be effective, as described under paragraph A above, should submit a new-drug application containing full information required by the new-drug application form FD–356H (21 CFR 130.4(c)). Such applications should include proposed labeling which is in accord with the labeling conditions described herein.

2. Distribution of any such preparation currently on the market without an approved new-drug application may be continued provided that:

a. Within 60 days from the date of publication of this announcement in the FEDERAL REGISTER, the labeling of such preparation shipped within the jurisdiction of the Act is in accord with the labeling conditions described herein.

b. The manufacturer, packer, or distributor of such drug submits, within 180 days from the date of this publication, a new-drug application to the Food and Drug Administration.

c. The applicant submits additional information that may be required for the approval of the application within a reasonable time as specified in a written communication from the Food and Drug Administration.

d. The application has not been ruled incomplete or unapprovable.

H. *Opportunity for a hearing.* 1. The Commissioner of Food and Drugs proposes to issue an order under the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act withdrawing approval of all new-drug applications and all amendments and supplements thereto providing for the indications for which substantial evidence of effectiveness is lacking as described in paragraph A of this announcement. An order withdrawing approval of the applications will not issue if such applications are supplemented, in accord with this notice, to delete such indications. Promulgation of the proposed order would cause any drugs for human use containing the same components and offered for the indications for which substantial evidence of effectiveness is lacking 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.

2. 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 holders of any such applications, and any interested person who would be adversely affected by such an order, an opportunity for a hearing to show why such indications should not be deleted from labeling. A request for a hearing must be filed within 30 days after the date of publication of this notice in the FEDERAL REGISTER. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing, together with a well-organized and full factual analysis of the clinical and other investigational data the objector is prepared to prove in a hearing. Any data submitted in response to this notice must be previously unsubmitted and include data from adequate and well-controlled clinical investigations (identified for ready review as described in § 130.12(a)(5) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety. 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.

I. *Unapproved use or form of drug.* If the article is marketed in another form or is labeled or advertised for use in any condition other than those provided for in this announcement, it may be regarded as an unapproved new drug subject to regulatory proceedings until such form or use is approved in a new-drug application, or is otherwise in accord with this announcement.

A copy of the NAS–NRC report has been furnished to each firm referred to above. Any other interested person may obtain a copy by request to the appropriate office named below.

Communications forwarded in response to this announcement should be identified with the reference number DESI 5509 and be directed to the attention of the appropriate office listed below and addressed (unless otherwise specified) to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

Supplements (identify with NDA number): Office of Marketed Drugs (BD–200), Bureau of Drugs.
Original new-drug applications: Office of New Drugs (BD–100), Bureau of Drugs.
Request for Hearing (identify with Docket number): Hearing Clerk, Office of General Counsel (GC–1), Room 6–62, Parklawn.
All other communications regarding this announcement: Special Assistant for Drug Efficacy Study Implementation (BD–201), Bureau of Drugs.
Requests for NAS–NRC report: Press Relations Staff (CE–200), Food and Drug Administration, 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, 505, 52 Stat. 1050–53, as amended; 21 U.S.C. 352, 355) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: August 31, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70–12606; Filed, Sept. 22, 1970; 8:46 a.m.]

[DESI 50204]

CHLORAMPHENICOL, PAROMOMYCIN, AND HYDROCORTISONE ACETATE FOR TOPICAL USE

Drugs for Human 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 dermatologic drug for topical use:

Humacort Ointment containing chloramphenicol, paromomycin ,and hydrocortisone acetate; marketed by Parke, Davis & Co., Joseph Campau at the River, Detroit, Mich. 48232 (NDA 50–204).

The Food and Drug Administration concludes that this drug is possibly effective for topical use in the treatment of pyogenic dermatoses of allergic and other etiology.

Preparations containing chloramphenicol, paromomycin, and hydrocortisone acetate are subject to the antibiotic certification procedures pursuant to section 507 of the Federal Food, Drug, and Cosmetic Act.

Batches of the drug which bear labeling with the above indications will be accepted for release or certification by the Food and Drug Administration for a period of 6 months from the publication date of this announcement to allow any applicant to obtain and submit data to provide substantial evidence of effectiveness of the drug for use in these conditions for which it has been evaluated as possibly effective.

To be acceptable for consideration in suppport of the effectiveness of a drug, any such data must be previously unsubmitted, well-organized, and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in § 130.12(a)(5) of the regulations published as a final order in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for the approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

At the end of the 6-month period any such data will be evaluated to determine whether there is substantial evidence of effectiveness for such uses. After that evaluation, the conclusions concerning the drug will be published in the FEDERAL REGISTER. If no studies have been undertaken or if the studies do not provide substantial evidence of effectiveness, such drug will not be eligible for release or certification.

A copy of the NAS–NRC report has been furnished to the firm referred to above. Any other interested person may obtain a copy by request to the appropriate office named below.

Communications forwarded in response to this announcement should be identified with the reference number DESI 50204 and be directed to the attention of the appropriate office listed below and addressed (unless otherwise specified) to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

Amendment (identify with NDA number): Division of Anti-Infective Drugs, (BD–140), Office of New Drugs, Bureau of Drugs.
Other communciations regarding this announcement: Special Assistant for Drug Efficacy Study Implementation (BD–201), Bureau of Drugs.
Requests for NAS–NRC report: Press Relations Staff (CE–200), Food and Drug Administration, 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, 507, 52 Stat. 1050–51, as amended, 59 Stat. 463, as amended; 21 U.S.C. 352, 357) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: August 26, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70–12607; Filed, Sept. 22, 1970; 8:47 a.m.]

[DESI 13334]

DEXAMETHASONE SODIUM PHOSPHATE AND LIDOCAINE HYDROCHLORIDE FOR PARENTERAL USE

Drugs for Human 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 steroid preparations for parenteral use:

Decadron Phosphate with Xylocaine Injection and Decadron Phosphate with Xylocaine Injection, Dilute, each containing dexamethasone sodium phosphate and lidocaine hydrochloride; Merck, Sharp & Dohme, Division of Merck & Co., Inc., West Point, Pa. 19486 (NDA 13-334).

The Food and Drug Administration has considered the Academy report, as well as other available evidence, and concludes that there is a lack of substantial evidence, within the meaning of the Federal Food, Drug, and Cosmetic Act, that these fixed combination drugs will have the effects that they purport or are represented to have under the conditions of use prescribed, recommended or suggested in the labeling.

Accordingly, the Commissioner of Food and Drugs intends to initiate proceedings to withdraw approval of the above listed new drug application.

Prior to initiating such action, however, the Commissioner invites the holder of the new-drug application for these drugs and any interested person who might be adversely affected by their removal from the market, to submit pertinent data bearing on the proposal within 30 days after publication hereof in the FEDERAL REGISTER. To be acceptable for consideration in support of the effectiveness of a drug, any such data must be previously unsubmitted, well-organized, and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in § 130.12(a)(5) of the regulations published as a final order in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for the approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

This announcement of the proposed action and implementation of the NAS-NRC report for these drugs is made to give notice to persons who might be adversely affected by their withdrawal from the market. Promulgation of an order withdrawing approval of the new-drug application will cause any such drug on the market to be a new drug for which an approved new-drug application is not in effect and will make it subject to regulatory action.

The above named holder of the new-drug application for these drugs has been mailed a copy of the NAS-NRC report. Any interested person may obtain a copy of the report by writing to the office named below.

Communications forwarded in response to this announcement should be identified with the reference number DESI 13334 and be directed to the attention of the appropriate office listed below and addressed to the Food and Drug Administration.

Requests for NAS-NRC reports: Press Relations Staff (CE-200), 200 C Street SW., Washington, D.C. 20204.

All other communications regarding this announcement: Special Assistant for Drug Efficacy Study Implementation (BD-201), Bureau of Drugs, 5600 Fishers Lane, Rockville, Md. 20852.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: August 31, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70-12608; Filed, Sept. 22, 1970; 8:47 a.m.]

[DESI 6343]

[Docket No. FDC-D-235; NDA 6343 et al.]

HYALURONIDASE

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following hyaluronidase drugs intended for injectable use in humans:

1. Wydase Solution and Wydase Lyophilized; marketed by Wyeth Laboratories, Inc., Post Office Box 8299, Philadelphia, Pa. 19101 (NDA 6-343).

2. Alidase; marketed by G. D. Searle & Co., Post Office Box 5110, Chicago, Ill. 60680 (NDA 6-714).

3. Hyazyme; marketed by Abbott Laboratories, North Chicago, Ill. 60064 (NDA 7-933).

The drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. A new drug application is required from any person marketing such drugs without approval.

The Food and Drug Administration is prepared to approve new drug applications and supplements to previously approved new drug applications under conditions described in this announcement.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy reports, as well as other available evidence, and concludes that:

1. Hyaluronidase is effective for enhancing the dispersion and absorption of other injected drugs; for hypodermoclysis; as an adjunct in subcutaneous urography; for improving resorption of radiopaque agents.

2. Hyaluronidase is probably effective as an aid in retrobulbar and cone injection infiltrative anesthesia in ocular surgery; for reducing painful swelling by absorption of locally accumulated fluid (transudates or blood) due to trauma; for hastening the onset of action and diffuseability of local anesthetics; in minimizing tumefaction during surgery; and for reducing postoperative edema and ecchymosis.

3. Hyaluronidase lacks substantial evidence of effectiveness for use in postoperative eye edema; for the resolution of early pterygiums; to hasten the reabsorption of traumatic subconjunctival hemorrhage and to dissolve the products of degenerative keratitis; and as an adjunct in producing hypotonia.

4. The drug is considered possibly effective for other labeled indications.

B. *Form of drug.* Hyaluronidase preparations are sterile solutions or powder for reconstitution and are suitable for injection.

C. *Labeling conditions.* 1. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

2. The drug is labeled to comply with all requirements of the Act and regulations. Its labeling bears adequate information for safe and effective use of the drug and is in accord with the effectiveness classifications, the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970, and, where applicable, the Academy's comments. The "Indications" section is as follows:

INDICATIONS

This drug is indicated as an adjuvant to increase the absorption and dispersion of other injected drugs; for hypodermoclysis; as an adjunct in subcutaneous urography; for improving resorption of radiopaque agents; as an aid in retrobulbar and cone injection infiltrative anesthesia in ocular surgery; as an adjunct in reducing painful swelling by resorption of locally accumulated fluid; for hastening the onset of action and diffusability of local anesthetics; for minimizing tumefaction during surgery and reducing postoperative edema and ecchymosis.

D. *Indications permitted during extended period for obtaining substantial evidence.* 1. Those indications for which the drug is described in paragraph A2 above as probably effective are included in the labeling conditions in paragraph C and may continue to be used for 12 months following the date of this publication to allow additional time within which holders of previously approved applications or persons marketing the drug without approval may obtain and submit to the Food and Drug Administration data to provide substantial evidence of effectiveness.

2. Those indications for which the drug is referenced in paragraph A4 above as possibly effective (not included in the labeling conditions in paragraph C) may continue to be used for 6 months following the date of this publication to allow additional time within which

holders of previously approved applications or persons marketing the drug without approval may obtain and submit to the Food and Drug Administration data to provide substantial evidence of effectiveness.

To be acceptable for consideration in support of the effectiveness of a drug, any such data must be previously unsubmitted, well-organized, and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in § 130.12(a)(5) of the regulations published as a final order in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for the approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

E. *Marketing status.* Marketing of the drug may continue under the conditions described in paragraphs F and G of this announcement except that those indications referenced in paragraph D may continue to be used as described therein.

F. *Previously approved applications.* 1. Each holder of a "deemed approved" new drug application (i.e., and application which became effective on the basis of safety prior to Oct. 10, 1962) for such drug is requested to seek approval of the claims of effectiveness and bring the application into conformance by submitting supplements containing:

a. Revised labeling as needed to conform with the labeling conditions described herein for the drug, and complete current container labeling, unless recently submitted.

b. Updating information as needed to make the application current.

2. Such supplements should be submitted within the following time periods after the date of publication of this announcement in the FEDERAL REGISTER:

a. 60 days for revised labeling—the supplement should be submitted under the provisions of § 130.9 (d) and (e) of the new drug regulations (21 CFR 130.9) which permit certain changes to be put into effect at the earliest possible time.

b. 60 days for updating information.

3. Marketing of the drug may continue until the supplemental applications submitted in accord with the preceding subparagraphs 1 and 2 are acted upon, provided that within 60 days after the date of this publication, the labeling of this preparation shipped within the jurisdiction of the Act is in accord with the labeling conditions described in this announcement. (It may continue to include the indications referenced in paragraph D for the periods stated.)

G. *New applications.* 1. Any other person who distributes or intends to distribute such drug which is intended for the conditions of use for which it has been shown to be effective, as described under paragraph A above, should submit a new drug application containing full information required by the new drug application form FD-356H (21 CFR 130.4(c)). Such applications should include proposed labeling which is in accord with the labeling conditions described herein.

2. Distribution of any such preparation currently on the market without an approved new drug application may be continued provided that:

a. Within 60 days from the date of publication of this announcement in the FEDERAL REGISTER, the labeling of such preparation shipped within the jurisdiction of the Act is in accord with the labeling conditions described herein. (It may continue to include the indications referenced in paragraph D for the period stated.)

b. The manufacturer, packer, or distributor of such drug submits, within 180 days from the date of this publication, a new drug application to the Food and Drug Administration.

c. The applicant submits additional information that may be required for the approval of the application within a reasonable time as specified in a written communication from the Food and Drug Administration.

d. The application has not been ruled incomplete or unapprovable.

H. *Opportunity for a hearing.* 1. The Commissioner of Food and Drugs proposes to issue an order under the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act withdrawing approval of all new-drug applications and all amendments and supplements thereto providing for the indications for which substantial evidence of effectiveness is lacking as described in paragraph A3 of this announcement. An order withdrawing approval of the applications will not issue if such applications are supplemented, in accord with this notice, to delete such indications. Promulgation of the proposed order would cause any drug for human use containing the same components and offered for the indications for which substantial evidence of effectiveness is lacking, 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.

2. 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 holders of any such applications, and any interested person who would be adversely affected by such an order, an opportunity for a hearing to show why such indications should not be deleted from labeling. A request for a hearing must be filed within 30 days after the date of publication of this notice in the FEDERAL REGISTER. A request for a hearing may not rest upon mere allegations or denials but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing, together with a well-organized and full-factual analysis of the clinical and other investigational data the objector is prepared to prove in a hearing. Any data submitted in response to this notice must be previously unsubmitted and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in § 130.12(a)(5) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially-controlled situations are not acceptable as a sole basis for approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety. 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.

A copy of the NAS–NRC report has been furnished to each firm referred to above. Any other interested person may obtain a copy by request to the appropriate office named below.

Communications forwarded in response to this announcement should be identified with the reference number DESI 6343 and be directed to the attention of the appropriate office listed below and addressed (unless otherwise specified) to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

Supplements (identify with NDA number): Office of Marketed Drugs (BD–200), Bureau of Drugs.

Original new drug applications: Office of New Drugs (BD–100), Bureau of Drugs.

Request for Hearing (identify with Docket number): Hearing Clerk, Office of General Counsel (GC–1), Room 6–62, Parklawn.

All other communications regarding this announcement: Special Assistant for Drug Efficacy Study Implementation (BD–201), Bureau of Drugs.

Requests for NAS–NRC report: Press Relations Office (CE–200), Food and Drug Administration, 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, 505, 52 Stat. 1050–53, as amended; 21 U.S.C. 352, 355) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: September 3, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70–12609; Filed, Sept. 22, 1970; 8:47 a.m.]

[DESI 8311]

CERTAIN OXYTETRACYCLINE HYDROCHLORIDE, CHLORTETRACYCLINE HYDROCHLORIDE, TETRACYCLINE HYDROCHLORIDE, AND BACITRACIN PREPARATIONS FOR INHALATION, TOPICAL OR OTIC USE

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study

Group, on the following antibiotic-containing drugs for topical or otic use:

1. Terramycin for Aerosol (oxytetracycline hydrochloride) marketed by Chas. Pfizer & Co., Inc., 235 East 42d Street, New York, N.Y. 10017 (NDA 8-311).

2. Aureomycin Strip Dressing (chlortetracycline hydrochloride) marketed by Davis and Geck, Division of American Cyanamid Co., 1 Casper Street, Danbury, Conn. 06810 (NDA 50-228).

3. Aureomycin Dressing (chlortetracycline hydrochloride) marketed by Davis and Geck (NDA 50-228).

4. Aureomycin Sterilized Packing (chlortetracycline hydrochloride) marketed by Davis and Geck (NDA 50-229).

5. Aeromycin Surgical Powder (chlortetracycline hydrochloride) marketed by Lederle Laboratories, Division, American Cyanamid Co., Post Office Box 500, Pearl River, N.Y. 10965 (NDA 50-252).

6. Aureomycin for Ear Solution (chlortetracycline hydrochloride) marketed by Lederle Laboratories (NDA 50-246).

7. Achromycin Surgical Powder (tetracycline hydrochloride) marketed by Lederle Laboratories (NDA 50-270).

8. Bacitracin Solvets (soluble tablet for use as topical solution or wet dressing) marketed by Eli Lilly and Co., Post Office Box 618, Indianapolis, Ind. 46206 (NDA 60-430).

The Food and Drug Administration has considered the reports of the Academy, as well as other available evidence, and concludes that the drugs described above are possibly effective for their labeled indications.

Preparations containing these drugs are subject to the antibiotic certification procedures under section 507 of the Federal Food, Drug, and Cosmetic Act. To allow applicants time to obtain and submit data to provide substantial evidence of effectiveness of a drug in those conditions for which it has been evaluated as possibly effective, batches of the drugs which bear labeling with those indications will continue to be accepted for release or certification by the Food and Drug Administration for a period of 6 months from the publication date of this announcement in the FEDERAL REGISTER.

To be acceptable for consideration in support of the effectiveness of a drug, any such data must be previously unsubmitted, well-organized, and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in § 130.12(a)(5) of the regulations published as a final order in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for the approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

At the end of the 6-month period, any such data will be evaluated to determine whether there is substantial evidence of effectiveness for such uses. After that evaluation, the conclusions concerning the drug will be published in the FEDERAL REGISTER. If no studies have been undertaken or if the studies do not provide substantial evidence of effectiveness, such drug will not be eligible for release or certification.

A copy of the NAS-NRC report has been furnished to each firm referred to above. Any other interested person may obtain a copy by request to the appropriate office named below.

Communications forwarded in response to this announcement should be identified with the reference number DESI 8311 and be directed to the attention of the following appropriate office and addressed (unless otherwise specified) to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852;

Amendments (Identify with NDA number), Division of Anti-Infective Drugs (BD-140), Office of New Drugs, Bureau of Drugs.
All other communications regarding this announcement: Special Assistant for Drug Efficacy Study Implementation (BD-201), Bureau of Drugs.
Requests for NAS-NRC Report: Press Relations Office (CE-200), Food and Drug Administration, 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, 507, 52 Stat. 1050-51, as amended, 59 Stat. 463, as amended; 21 U.S.C. 352, 357) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: August 26, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70-12610; Filed, Sept. 22, 1970; 8:47 a.m.]

[DESI 11919]

XYLOMETAZOLINE HYDROCHLORIDE NASAL PREPARATIONS FOR TOPICAL USE

Drugs for Human 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 sympathomimetic nasal preparations for topical use:

Otrivin Hydrochloride Nasal Solution, Otrivin Hydrochloride Nasal Spray, Otrivin Hydrochloride Pediatric Nasal Solution, and Otrivin Hydrochloride Pediatric Nasal Spray; all contain xylometazoline hydrochloride and are marketed by Ciba Pharmaceutical Co., 556 Morris Avenue, Summit, N.J. 07901 (NDA 11-919).

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drug. A new drug application is required from any person marketing such drug without approval.

The Food and Drug Administration is prepared to approve new drug applications and supplements to previously approved new drug applications under conditions described in this announcement.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy report, as well as other available evidence, and concludes that xylometazoline hydrochloride nasal preparations are effective for topical use in the treatment of nasal congestion associated with colds, hay fever, sinusitis, and similar conditions; and for production of prompt and prolonged shrinkage of the nasal mucosa.

B. *Form of drug.* Xylometazoline hydrochloride preparations are in solution form suitable for topical administration.

C. *Labeling conditions.* 1. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

2. The drug is labeled to comply with all requirements of the Act and regulations. Its labeling bears adequate information for safe and effective use of the drug and is in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970. The "Indications" section is as follows:

INDICATIONS

For decongestion of the nasal mucosa.

D. *Marketing status.* Marketing of the drug may continue under the conditions described in paragraphs E and F of this announcement.

E. *Previously approved applications.* 1. Each holder of a "deemed approved" new drug application (i.e., an application which became effective on the basis of safety prior to Oct. 10, 1962) for such drug is requested to seek approval of the claims of effectiveness and bring the application into conformance by submitting supplements containing:

a. Revised labeling as needed to conform to the labeling conditions described herein for the drug and complete current container labeling, unless recently submitted.

b. Updating information as needed to make the application current in regard to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of the new drug application form FD-356H to the extent described for abbreviated new drug applications, § 130.4(f), published in the FEDERAL REGISTER, April 24, 1970 (35 F.R. 6574). (One supplement may contain all the information described in this paragraph.)

2. Such supplements should be submitted within the following time periods after the date of publication of this notice in the FEDERAL REGISTER:

a. 60 days for revised labeling. The supplement should be submitted under the provisions of § 130.9 (d) and (e) of the new drug regulations (21 CFR 130.9) which permit certain changes to be put into effect at the earliest possible time.

b. 60 days for updating information.

3. Marketing of the drug may continue until the supplemental applications submitted in accord with the preceding subparagraphs 1 and 2 are acted upon, provided that within 60 days after the date

of this publication, the labeling of the preparation shipped within the jurisdiction of the Act is in accord with the labeling conditions described in this announcement.

F. *New applications.* 1. Any other person who distributes or intends to distribute such drug which is intended for the conditions of use for which it has been shown to be effective, as described under A above, should submit an abbreviated new drug application meeting the conditions specified in § 130.4(f) (1) and (2), published in the FEDERAL REGISTER, April 24, 1970 (35 F.R. 6574). Such applications should include proposed labeling which is in accord with the labeling conditions described herein.

2. Distribution of any such preparation currently on the market without an approved new drug application may be continued provided that:

a. Within 60 days from the date of publication of this announcement in the FEDERAL REGISTER, the labeling of such preparation shipped within the jurisdiction of the Act is in accord with the labeling conditions described herein.

b. The manufacturer, packer, or distributor of such drug submits, within 60 days from the date of this publication, a new drug application to the Food and Drug Administration.

c. The applicant submits within a reasonable time additional information that may be required for the approval of the application as specified in a written communication from the Food and Drug Administration.

d. The application has not been ruled incomplete or unapprovable.

G. *Exemption from periodic reporting.* The periodic reporting requirements of §§ 130.35(e) and 130.13(b)(4) are waived in regard to applications approved for this drug solely for the conditions of use for which the drug is regarded as effective as described herein.

H. *Unapproved use or form or drug.* 1. If the article is labeled or advertised for use in any condition other than those provided for in this announcement, it may be regarded as an unapproved new drug subject to regulatory proceedings until such recommended use is approved in a new drug application or is otherwise in accord with this announcement.

2. If the article is proposed for marketing in another form or for use other than the use provided for in this announcement, appropriate additional information as described in § 130.4 or § 130.9 of the regulations (21 CFR 130.4, 130.9) may be required, including results of animal and clinical tests intended to show whether the drug is safe and effective.

A copy of the NAS–NRC report has been furnished to the firm referred to above. Any other interested person may obtain a copy by request to the appropriate office named below.

Communications forwarded in response to this announcement should be identified with the reference number DESI 11919 and be directed to the attention of the appropriate office listed below and addressed (unless otherwise specified) to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

Supplements (identify with NDA number): Office of Marketed Drugs (BD–200), Bureau of Drugs.

Original abbreviated new drug applications (identify as such): Office of Marketed Drugs (BD–200), Bureau of Drugs.

All other communications regarding this announcement: Special Assistant for Drug Efficacy Study Implementation (BD–201), Bureau of Drugs.

Requests for NAS–NRC report: Press Relations Staff (CE–200), Food and Drug Administration, 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, 505, 52 Stat. 1050–53, as amended; 21 U.S.C. 352, 355) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: September 1, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70–12611; Filed, Sept. 22, 1970; 8:47 a.m.]

CIVIL SERVICE COMMISSION

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Deputy Under Secretary for Policy Coordination, Office of the Under Secretary, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 70–12644; Filed, Sept. 22, 1970; 8:50 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary for Legislation (Welfare), Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 70–12645; Filed, Sept. 22, 1970; 8:50 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Notice of Title Change in Noncareer Executive Assignment

By notice of December 20, 1969, F.R. Doc. 69–15148 the Civil Service Commission authorized the Department of Health, Education, and Welfare to make a change in title for the position of Deputy Assistant Secretary for Population and Family Planning, Office of the Assistant Secretary for Health and Scientific Affairs, Office of the Secretary, authorized to be filled by noncareer executive assignment. This is notice that the title of this position is now being changed to Deputy Assistant Secretary for Population Affairs, Office of the Assistant Secretary for Health and Scientific Affairs, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 70–12647; Filed, Sept. 22, 1970; 8:50 a.m.]

DEPARTMENT OF TRANSPORTATION

Notice of Title Change in Noncareer Executive Assignment

By notice of November 17, 1967, F.R. Doc. 67–13608, the Civil Service Commission authorized the departments and agencies to fill by noncareer executive assignment, certain positions removed from Schedule C of Civil Service Rule VI by 5 CFR 213.3301a on November 17, 1967. This is notice that the title of one such position so authorized to be filled by noncareer executive assignment has been changed from "Deputy Assistant Secretary for International Affairs, Office of Assistant Secretary for International Affairs" to "Deputy Assistant Secretary for International Affairs, Office of Assistant Secretary for Policy and International Affairs."

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 70–12648; Filed, Sept. 22, 1970; 8:50 a.m.]

DEPARTMENT OF THE TREASURY

Notice of Title Change in Noncareer Executive Assignment

By notice of June 3, 1969, F.R. Doc. 69–6490, the Civil Service Commission authorized the Department of Treasury to make a change in title for the position of Deputy Assistant Secretary and Director, Office of Tax Analysis, authorized to be filled by noncareer executive assignment. This is notice that the title of this position is now being changed to Deputy Assistant Secretary for Tax

Policy (Tax Analysis), Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 70-12649; Filed, Sept. 22, 1970; 8:50 a.m.]

VETERANS ADMINISTRATION

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Veterans Administration to fill by noncareer executive asignment in the excepted service the position of Special Assistant to the Administrator, Office of the Administrator, Office of the Special Assistant.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 70-12646; Filed, Sept. 22, 1970; 8:50 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Dockets Nos. 18634, 18635; FCC 70R-320]

PACIFICA FOUNDATION AND NATIONAL EDUCATION FOUNDATION, INC.

Memorandum Opinion and Order Enlarging Issues

1. This proceeding, designated for hearing by order, FCC 69-902, 16 RR 2d 1117, released August 20, 1969, involves the mutually exclusive applications of Pacifica Foundation (Pacifica) and National Education Foundation, Inc. (NEF), for a construction permit for a new noncommercial educational FM broadcast facility in Washington, D.C. Presently before the Review Board is a petition to enlarge issues, filed June 11, 1970, by the Broadcast Bureau seeking the addition of issues to determine whether Pacifica has solicited or encouraged others to make an ex parte presentation in violation of §§ 1.1221 and 1.1225 of the Commission's rules [1] and, if so, the effect thereof upon the character qualifications of the applicant.[2]

2. The basis for the Bureau's request is a portion of the June 1970, program guide, written by Marvin J. Segelman, the general manager of Station KPFK, Pacifica's Los Angeles, Calif., FM facility, and sent to that station's subscribers. Disclosing that the commencement of hearings on Pacifica's application for the Washington, D.C. facility was imminent, Segelman informed the subscribers that the outcome of this proceeding "is most critical" since an adverse determination concerning Pacifica's eligibility to broadcast as an educational noncommercial licensee would also mean the cessation of operation by Station KPFK and Station KPFT, Pacifica's Dallas, Texas, FM facility, and the possible loss of the tax-exempt status of Pacifica's other FM facilities in California and New York. Thereupon the following request was made:

> Realistically, the issue is one of survival. It is your support that can see us through the present crisis. We need your views on Pacifica made known to the Federal Communications Commission in Washington. They have heard from Barrons * * * They have received a number of complaints. They have not heard from our listener-sponsors. If you choose to make your view of Pacifica known to the FCC, please send me a copy of your letter.

It is the contention of the Broadcast Bureau that the request for support, which specifically refers to this restricted proceeding and calls on Station KPFK's listener-sponsors to submit their views regarding the merits of this controversy, clearly solicits a written ex parte presentation to the Commission, and warrants the inclusion of the requested issues. NEF agrees with the Bureau's argument and notes as an additional predicate for the requested issues that full disclosure of the above incident has not been made to the Commission's Executive Director as required by § 1.1245.[3]

3. In opposition to the Bureau's petition, Pacifica submits a July 13, 1970, affidavit of Segelman, who disavows any intention of interferring with the instant proceeding in an extra-legal manner. Had he intended Station KPFK's listener-sponsors to improperly communicate with the Commission's decision-making personnel, Segelman states, he would have advised them to address their letters to the individual Commissioners or the Hearing Examiner, rather than to the Federal Communications Commission. The primary reason for requesting that letters be sent to the Commission, avers Segelman, was to counterbalance the complaints concerning Station KPFK, which the Commission had received during the past several months.[4] Contending that the communication in question was neither secretive nor intended to influence the Commission's decision-making personnel, Pacifica urges the denial of the instant petition.

4. In reply, the Broadcast Bureau reiterates its request for an ex parte issue, maintaining that the statement authored by Segelman, which is neither vague nor indefinite, clearly and intentionally urges the Station KPFK listener-sponsors to comment on the merits of this restricted proceeding. In the Bureau's opinion, the overall tenor of the communication in question belies Segelman's representations that a presentation to the Commission's decision-making personnel was not intended.[5] With respect to Segelman's belief concerning the segregation of the correspondence from the Station KPFK listener-sponsors, the Bureau points out that the requested ex parte issue concerns whether Pacifica, through the actions of Segelman, solicited or encouraged others to make ex parte presentations, not whether the attempts came to fruition.

5. The Review Board is of the opinion that a serious question exists as to whether Pacifica has contravened the Commission's ex parte rules. Not disputed by Pacifica are that the applicant, through the actions of Station KPFK's general manager, who is also a member of Pacifica's management advisory council,[6] requested the support of persons who had made financial contributions to Station KPFK and who could reasonably be expected to comment favorably concerning the Station KPFK operation;[7] that

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[1] Specifically, § 1.1221(b) prohibits interested persons from making or attempting to make, either directly or indirectly, any written ex parte presentation in a restricted proceeding, which has been designated for hearing. Section 1.1225(a) prohibits any person who is himself forbidden to make an ex parte presentation from soliciting or encouraging a third party to make an ex parte presentation.

[2] Other related pleadings before the Board for consideration are: (a) Comments, filed June 22, 1970, by NEF; (b) opposition, filed July 15, 1970, by Pacifica; and (c) reply, filed July 24, 1970, by the Broadcast Bureau.

[3] By his letter of June 23, 1970, counsel for Pacifica informed the Commission's Executive Director of Station KPFK's request for support and the resulting correspondence, of which counsel had allegedly been unaware prior to the filing of the Bureau's petition.

[4] Allegedly, it was Segelman's belief that the requested letters would be treated in the same manner as complaints involving a broadcast station, namely, forwarded upon receipt to the Commission's Complaints and Compliance Division, whose members are not decision-making personnel, for inclusion in the station's file.

[5] Segelman's usage of the plural pronoun "they" in the request for support does not suggest to the Bureau an intention to avoid communications with the Commissioners. In addition, the Bureau notes that the term "the Commission" embraces both decision-making and other Commission personnel.

[6] In absence of disavowal of Segelman's actions, the Board must presume, for the purpose of determining whether an issue is warranted, that the applicant either authorized or at least acquiesced in his conduct. However, this matter may be developed at the hearing.

[7] As indicated in Segelman's affidavit, the views of these listener-sponsors had been solicited for the express purpose of eliciting for the Commission's staff "examples of more of the positive types of comments [Station KPFK] had been receiving over the years" and "to counterbalance the complaints filed against Station KPFK", which were expected to be introduced into evidence in this restricted proceeding by the Broadcast Bureau.

neither the request, which was contained in the June 1970, program guide of Station KPFK, nor the resulting correspondence was served upon the other parties to this restricted proceeding;[8] and that presentations within the meaning of § 1.1201(f) were solicited or encouraged.[9] Rather, the applicant challenges the prohibitive nature of the solicited presentations, contending that the transmittal of the requested communications to the Commission's decision-making personnel was neither intended nor directed. However, the designation of the Federal Communications Commission, rather than specific decision-making personnel of the agency, as the desired recipient of the solicited presentations is not sufficient to excuse the applicant's action. For example, in Quest for Life, 10 FCC 2d 220, 11 RR 2d 346 (1967), we added an ex parte issue where an applicant has solicited support for its application "in the form of letters to the FCC". Despite its protestations to the contrary, an intention to restrict the transmittal of the solicited presentations to the Commission's non-decision-making personnel is not readily apparent from the wording of the applicant's request for support.[10] Under the circumstances, the Review Board believes that an evidentiary inquiry concerning the applicant's alleged transgression of the Commission's ex parte rules is warranted. See Al G. Stanley (KATO), FCC 70–849, ——— FCC 2d ——, released August 18, 1970; Quest for Life, supra. Therefore, an issue, under which this matter can be explored at hearing, will be specified.

6. *Accordingly, it is ordered,* That the petition to enlarge issues, filed June 11, 1970, by the Broadcast Bureau is granted; and

7. *It is further ordered,* That the issues in this proceeding are enlarged by the addition of the following issue:

To determine whether Pacifica Foundation has solicited or encouraged others to make an ex parte presentation in violation of §§ 1.1221 and 1.1225 of the Commission's rules and, if so, the effect thereof on the applicant's requisite or comparative qualifications.

8. *It is further ordered,* That the burden of proceeding with the introduction of evidence under the issue added herein shall be on the Broadcast Bureau and the burden of proof shall be on Pacifica Foundation.

[8] Pacifica notes that its request for support had been "published" in Station KPFK's monthly program guide. However, there is no indication or allegation that the other parties herein were or should have been aware of the request included in that publication.

[9] See Rules Governing Ex Parte Communications in Hearing Proceedings, 1 FCC 2d 1681, par. 20, at 1691 (1965).

[10] We note from examination of Commission files that a number of the persons solicited have also failed to perceive the applicant's alleged intention and have addressed their correspondence to decision-making personnel of the Commission.

Adopted: September 14, 1970.

Released: September 15, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[11]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 70–12690; Filed, Sept. 22, 1970; 8:53 a.m.]

FEDERAL MARITIME COMMISSION

ATLANTIC AND GULF-INDONESIA CONFERENCE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. R. T. Curran, Secretary, Atlantic and Gulf-Indonesia Conference, 11 Broadway, New York, N.Y. 10004.

Agreement No. 8080–9 between members of the Atlantic and Gulf-Indonesia Conference modifies Article 7 of the basic agreement, as amended, by defining compensation to be paid to freight forwarders and brokers on open-rated commodities as (1) 2½ percent maximum, and (2) open when the "open-rated commodities move in full cargoes of one commodity shipped by one shipper under charter conditions".

Dated: September 18, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70–12674; Filed, Sept. 22, 1970; 8:51 a.m.]

[11] Board members Nelson and Kessler dissenting.

ATLANTIC AND GULF-SINGAPORE, MALAYA, AND THAILAND CONFERENCE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. R. T. Curran, Secretary, Atlantic and Gulf-Singapore, Malaya, and Thailand Conference, 11 Broadway, New York, N.Y. 10004.

Agreement No. 8240–7 between members of the Atlantic and Gulf-Singapore, Malaya, and Thailand Conference modifies Article 7 of the basic agreement, as amended, by defining compensation to be paid to freight forwarders and brokers on open-rated commodities as (1) 2½ percent maximum, and (2) open when the "open-rated commodities move in full cargoes of one commodity shipped by one shipper under charter conditions".

Dated: September 18, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70–12675; Filed, Sept. 22, 1970; 8:51 a.m.]

WSUP ALLOCATION AGREEMENT

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreements filed for approval by:

Mr. Edward D. Ransom, Lillick, McHose, Wheat, Adams & Charles, 311 California Street, San Francisco, Calif. 94104.

Agreements Nos. T-2188-3 and T-2188-4, between certain Hawaiian stevedore companies (Employers), modify the basic agreement which provides for an allocation among the Employers of the costs of a Work Stabilization and Utilization Program Fund (WSUP Fund) for their employees. The purpose of Agreement No. T-2188-3 is to provide that the Employers will raise the original amount contemplated for the terminal period of the WSUP Fund by continuing the tonnage formula, and raise the additional sums needed to satisfy all obligations arising under the WSUP program by contributions on the basis of hours worked by the employees. Agreement No. T-2188-4 provides that Seatrain Terminals of California will become a party to Agreement No. T-2188, as amended.

Dated: September 17, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-12676; Filed, Sept. 22, 1970; 8:52 a.m.]

FEDERAL RESERVE SYSTEM

CITIZENS BANCSHARES OF FLORIDA, INC.

Order Approving Action To Become Bank Holding Company

In the matter of the application of Citizens Bancshares of Florida, Inc., Hollywood, Fla., for approval of action to become a bank holding company through the acquisition of 80 percent or more of the voting shares of Citizens National Bank of West Hollywood, West Hollywood; Citizens National Bank of Hollywood, Hollywood; Citizens National Bank of Miami, Dade County; and Citizens National Bank of Davie, Davie, all in Florida.

There has come before the Board of Governors, pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)) and § 222.3(a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by Citizens Bancshares of Florida, Inc., Hollywood, Fla., for the Board's prior approval of action whereby applicant would become a bank holding company through the acquisition of 80 percent or more of the voting shares of each of four banks in Florida: Citizens National Bank of West Hollywood, West Hollywood; Citizens National Bank of Hollywood, Hollywood; Citizens National Bank of Miami, Dade County; and Citizens National Bank of Davie, Davie.

As required by section 3(b) of the Act, the Board gave written notice to the Comptroller of the Currency of receipt of the application 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 July 2, 1970 (35 F.R. 10810), which provided an opportunity for interested persons to submit comments and views with respect to the proposed transaction. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. The time for filing comments and views has expired and all those received have been considered by the Board.

It is hereby ordered, For the reasons set forth in the Board's statement[1] of this date, 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, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

[1] Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C., 20551, or to the Federal Reserve Bank of Atlanta.

By order of the Board of Governors,[2] September 16, 1970.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-12655; Filed, Sept. 22, 1970; 8:50 a.m.]

FIRST UNION, INC.

Order Approving Action To Become Bank Holding Company

In the matter of the application of First Union, Inc., St. Louis, Mo., for approval of action to become a bank holding company through the acquisition of all (less directors' qualifying shares) of the voting shares of Vandalia State Bank, Vandalia, Mo.

There has come before the Board of Governors, pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)) and § 222.3(a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by First Union, Inc., St. Louis, Mo., which presently owns 97 percent of the voting shares of First National Bank in St. Louis, St. Louis, Mo., for the Board's prior approval of action whereby applicant would become a bank holding company through the acquisition of all (less directors' qualifying shares) of the voting shares of Vandalia State Bank, Vandalia, Mo.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Commissioner of Finance of the State of Missouri, and requested his views and recommendation. The Commissioner offered no objection to approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on July 22, 1970 (35 F.R. 11224), which provided an opportunity for interested persons to submit comments and views with respect to the proposed transaction. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. The time for filing comments and views has expired and all those received have been considered by the Board.

It is hereby ordered, For the reasons set forth in the Board's statement[1] of this date, 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 rate of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board, or

[1] Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551 or to the Federal Reserve Bank of St. Louis.

[2] Voting for this action: Chairman Burns and Governors Mitchell, Daane, Maisel, and Sherrill. Absent and not voting: Governors Robertson and Brimmer.

by the Federal Reserve Bank of St. Louis pursuant to delegated authority.

By order of the Board of Governors,[3] September 16, 1970.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-12656; Filed, Sept. 22, 1970; 8:50 a.m.]

MERRILL BANKSHARES CO.

Order

In the matter of the application of Merrill Bankshares Co., Bangor, Maine, for approval of the acquisition of all of the voting shares of the successor by merger to Federal Trust Co., Waterville, Maine.

There has come before the Board of Governors a request by Merrill Bankshares Co., Bangor, Maine, a registered bank holding company, that the Board vacate its order of April 27, 1970, approving the acquisition by Merrill Bankshares Co. of all the voting shares of the successor by merger to Federal Trust Co., Waterville, Maine.

Prior to the issuance by the Board of its order of April 27, 1970, a minority stockholder of Federal Trust Co. instituted a suit in the Superior Court of Maine attacking, as illegal under State law, the merger of Federal Trust Co. with Silver Street Trust Co., a new State bank organized to enable the holding company to acquire all of the shares of Federal Trust Co. The State court suit sought to prevent consummation of the holding company's plan for the acquisition of the shares of the successor to Federal Trust Co. The Maine Superior Court ruled against the plaintiff in a decision dated April 9, 1970. Marcou v. Federal Trust Company, et al., Civil Action No. 2950. However, on August 14, 1970, the Supreme Judicial Court of Maine, upon an appeal from the Maine Superior Court decision, held that the holding company's plan for the merger of Federal Trust Co. with Silver Street Trust Co. and an exchange of the shares of the resulting company for the shares of the holding company is unlawful under the Maine merger statute.

By letter dated August 25, 1970, the holding company advised the Board that the acquisition that was the subject of the Board's order of April 27, 1970, would not be consummated because the State Supreme Judicial Court had ruled that the plan is not permissible under State law; and the holding company requested that the Board vacate said order of April 27, 1970.

Upon consideration of the August 25 request by Merrill Bankshares Co., the interests of the participants in the matter of the application of Merrill Bankshares Co. to acquire the voting shares of the successor by merger to Federal Trust Co., and the matters set forth herein, the Board has concluded that applicant's request should be granted and that the Board's aforementioned order of April 27, 1970, should be vacated. Accordingly,

It is hereby ordered, That applicant's request for vacation of the Board's order of April 27, 1970, which approved Merrill Bankshares Co.'s application under the Bank Holding Company Act of 1956 for prior approval of the acquisition of all of the voting shares of the successor by merger to the Federal Trust Co. be, and hereby is, granted; and said order is vacated.

By order of the Board of Governors,[1] September 16, 1970.

[SEAL] ROBERT C. HOLLAND,
Secretary.

[F.R. Doc. 70-12657; Filed, Sept. 22, 1970; 8:51 a.m.]

SECURITY TRUST COMPANY OF ROCHESTER

Order Approving Merger of Banks

In the matter of the application of Security Trust Company of Rochester for approval of merger with The Cohocton State Bank.

There has come before the Board of Governors, pursuant to the Bank Merger Act (12 U.S.C. 1828(c)), an application by Security Trust Company of Rochester, Rochester, N.Y., a State member bank of the Federal Reserve System, for the Board's prior approval of the merger of that bank and The Cohocton State Bank, Cohocton, N.Y., under the charter and name of Security Trust Company of Rochester. As an incident to the merger, the sole office of The Cohocton State Bank would become a branch of the resulting bank. Notice of the proposed merger, in form approved by the Board, has been published pursuant to said Act.

Upon consideration of all relevant material in the record, including reports received pursuant to the Act on the competitive factors involved in the proposed merger, in the light of the factors set forth in said Act,

It is hereby ordered, For the reasons set forth in the Board's Statement[2] of this date, that said application be and hereby is approved, provided that said merger 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, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of New York pursuant to delegated authority.

By order of the Board of Governors,[1] September 17, 1970.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-12658; Filed, Sept. 22, 1970; 8:51 a.m.]

UNION TRUST COMPANY OF MARYLAND

Order Approving Merger of Banks

In the matter of the application of Union Trust Company of Maryland for approval of merger with Metropolitan National Bank of Maryland.

There has come before the Board of Governors, pursuant to the Bank Merger Act (12 U.S.C. 1828(c)), an application by Union Trust Company of Maryland, Baltimore, Md. ("Union Trust"), a State member bank of the Federal Reserve System, for the Board's prior approval of the merger of that bank and Metropolitan National Bank of Maryland, Wheaton, Md. ("Metropolitan"), under the charter and name of Union Trust Company of Maryland. As an incident to the merger the six offices of Metropolitan would become branches of the resulting bank, increasing the number of its authorized offices to 55. Notice of the proposed merger, in form approved by the Board, has been published as required by said Act.

Pursuant to the Act, the Board requested reports on the competitive factors involved from the Attorney General, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation. The Board has considered all relevant material contained in the record in the light of the factors set forth in the Act, including the effect of the proposal on competition, the financial and managerial resources and prospects of the banks concerned, and the convenience and needs of the communities to be served, and finds that:

Union Trust, the fifth largest bank in Maryland, has deposits of $414 million, representing 8.5 percent of commercial bank deposits in the State, and operates 49 offices, 42 of which are in the Baltimore area. (All banking data are as of Dec. 31, 1969.) Metropolitan, with total deposits of $12 million, representing 0.3 percent of the commercial bank deposits in the State, operates five banking offices in Montgomery County and one office in Prince Georges County, all within the Washington, D.C., metropolitan area. The closest offices of Union Trust and Metropolitan are more than 20 miles apart and there is no significant present competition between them. Maryland law permits State-wide branching, but de novo entry by Metropolitan into the area served by Union Trust is considered unlikely because of Metropolitan's limited size and the distance from its present offices. While entry by Union Trust into

[1] Voting for this action: Chairman Burns and Governors Robertson, Brimmer, and Sherrill. Absent and not voting: Governors Mitchell, Daane, and Maisel.

[2] Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of New York.

[3] Voting for this action: Chairman Burns and Governors Robertson, Brimmer, and Sherrill. Absent and not voting: Governors Mitchell, Daane, and Maisel.

the Washington area through a new branch establishment is perhaps more feasible, it does not appear likely, and in view of the number of large banks in the area and the limited size of Metropolitan, the method of entry proposed does not appear anticompetitive. On the contrary, the entry of Maryland's fifth largest bank into the Washington area would likely have a beneficial effect on competition.

Based upon the foregoing, the Board concludes that consummation of the proposal would not have an adverse effect on competition in any relevant area. Consummation of the merger would provide needed management depth to Metropolitan, and a wider variety of lending and fiduciary services to its customers. It is the Board's judgment that consummation of the proposal would be in the public interest, and that the application should be approved.

It is hereby ordered, On the basis of the findings summarized above, that said application be and hereby is approved, provided that the merger 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, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Richmond pursuant to delegated authority.

By order of the Board of Governors,[3] September 17, 1970.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-12659; Filed, Sept. 22, 1970; 8:51 a.m.]

FEDERAL POWER COMMISSION

[Docket No. RI71-233, etc.]

W. P. CARR ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates [2]

SEPTEMBER 11, 1970.

The respondents named herein have filed proposed increased rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act.

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before October 30, 1970.

By the Commission.

[SEAL] GORDON M. GRANT,
Secretary.

[3] Voting for this action: Chairman Burns and Governors Robertson, Brimmer, and Sherrill. Absent and not voting: Governors Mitchell, Daane, and Maisel.

[2] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf*		Rate in effect subject to refund in dockets Nos:
									Rate in effect	Proposed increased rate	
RI71-233	W. P. Carr	1	8	El Paso Natural Gas Co., (Aztec Pictured Cliffs Field, San Juan County, N. Mex., San Juan Basin).	$2,337	8-24-70	9-24-70	2-24-71	[1] [2] 12.2295	[1] [2] 13.2486	RI64-584.
	do	2	13	El Paso Natural Gas Co., (Blanco Mesa Verde Field, San Juanco, N. Mex., San Juan Basin).	4,901	8-24-70	9-24-70	2-24-71	[1] [2] [3] 14.2486	[1] [2] [3] 15.2678	RI164-587.
	do	3	[4] 11	El Paso Natural Gas Co., (Bondad Mesa Verde Field, La Plata County, Colo.).	1,195	8-24-70	9-24-70	2-24-71	[1] 13.0	[1] 15.0	
RI71-234	Getty Oil Co	135	2	Montana-Dakota Utilities Co. (Muddy Ridge Field, Fremont County, Wyo.).	1,300	8-28-70	9-28-70	2-28-71	[1] 15.384	[1] 16.384	
RI71-235	Featherstone Farms, Ltd.	2	3	El Paso Natural Gas Co. (Custer Mountain Unit, Lea County, N. Mex., Permian Basin).	63	8-24-70	10-1-70	3-1-71	18.0	19.0	RI67-50.
RI71-236	Tenneco Oil Co	146	7	El Paso Natural Gas Co. (South Andrews Wolfcamp Field, Andrews County, Tex., RR. District No. 8, Permian Basin).	1,205	8-24-70	9-24-70	2-24-71	12.8580	16.2760	RI70-561.
RI71-237	Shell Oil Co	356	4	Northern Natural Gas Co. (Northeast Oates Field), Pecos County, Tex., RR. District No. 8, Permian Basin).	2,687	8-27-70	9-27-70	2-27-71	14.2370	14.7069	RI70-436.
	do	375	3	Transwestern Pipeline Co. (Barstow Field, Ward County, Tex., RR. District No. 8, Permian Basin).	852	8-27-70	9-27-70	2-27-71	18.2531	18.8287	RI70-1045.
RI71-238	Texaco, Inc.[7]	443	1	Colorado Interstate Gas Co. (Greenwood Field, Baca County, Colo.).	811	8-21-70	9-21-70	2-21-71	14.6256	16.0	
RI71-239	Pennzoil Producing Co.[8]	[6] 276		United Gas Pipe Line Co. (Agua		8-25-70	10-1-70	Accepted	15.0		RI70-282 and RI70-1490.
			1	Dulce Field, Nueces County, Tex., RR. District No. 4)[9]	665,000	8-25-70	10-1-70	3-1-71	15.0	18.5	
RI71-240	Placid Oil Co	22	7	Natural Gas Pipeline Co. of America (Felton, Beach Field, Aransas County, Tex., RR. District No. 4).	6,023	8-27-70	9-27-70	2-27-71	18.0675	24.09	RI70-284.
	do	33	8	Natural Gas Pipeline Co. of America (Alta Loma Area, Galveston County, Tex., RR. District No. 3).	502	8-27-70	10-1-70	3-1-71	19.0713	24.09	RI70-284.

See footnotes at end of table.

APPENDIX—Continued

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf * Rate in effect	Cents per Mcf * Proposed increased rate	Rate in effect subject to refund in dockets Nos.
RI71-241	Humble Oil & Refining Co.	312	7	Valley Gas Transmission Co. (Southwest Ramerina Field, Live Oak County, Tex., RR. District No. 2).	(7)	8-31-70	10-24-70	3-24-71	15.0563	16.06	RI68-2.
RI71-242	Midhurst Oil Corp.	6	10	United Gas Pipe Line Co. (Hornbuckle et al. Fields, Jackson County, Tex., RR. District No. 2).	$233	8-31-70	10-1-70	3-1-71	18.0	18.2455	RI68-78.
RI71-243	Marathon Oil Co.	110	4	Arkansas Louisiana Gas Co. (Northeast Hillsdale Field, Grant and Garfield Counties, Okla., Other Area).	134	8-24-70	9-24-70	2-24-71	[8] 17.0	[8] 17.2	RI70-1307.
RI71-244	Flag Oil Corp. of Delaware.	5	2	Panhandle Eastern P/L Co. (South Peek Field, Roger Mills County, Okla., Other Area).	259	8-17-70	9-17-70	2-17-71	[8] [9] 16.20	[8] [9] 18.36	
	do	7	2	Panhandle Eastern P/L Co. (West Teagarden Field, Woods County, Okla., Other Area).	23,100	[8] 8-17-70	9-17-70	2-17-71	[8] [9] 16.59	[8] [9] 18.70	
	do	8	2	Michigan Wisconsin P/L Co. (Lenora Field, Dewey County, Okla., Other Area).	4,688	8-17-70	9-17-70	2-17-71	[8] [10] 15.07	[8] [10] 20.585	
	do	9	2	Michigan Wisconsin P/L Co. (East Togo Field, Major County, Okla. Other Area).	6,342	8-17-70	9-17-70	2-17-71	[8] [10] 16.52	[8] [10] 22.035	
RI71-245	Magic Circle Oil Co.	1	1	Michigan Wisconsin P/L Co. (Northeast Cedardale Field, Major County, Okla. Other Area).	10,440	8-27-70	9-27-70	2-27-71	[11] 15.0	[11] 17.9	
RI71-246	Mapco Production Co.	6	17	Northern Natural Gas Co. (Hugoton Field, Seward Haskell, Finney, and Stevens Counties, Kans.	2,850	8-28-70	10-1-70	3-1-71	[12] 12.0	13.0	RI68-583.
RI71-247	Getty Oil Co.	73	2	Panhandle Eastern P/L Co. (South Forgan Field, Beaver County, Okla. Panhandle Area).	180	8-28-70	9-28-70	2-28-71	17.1	18.0	RI69-624.
RI71-248	PetroDynamics, Inc.	9	13	Michigan Wisconsin P/L Co. (Mocane-Laverne Gas Area, Beaver County, Okla. Panhandle Area).	302	8-27-70	9-27-70	2-27-71	19.5	[13] 22.015	RI70-296.
	do	10	5	Northern Natural Gas Co. (Mocane-Laverne Gas Area, Beaver County, Okla. Panhandle Area).	1,006	8-27-70	9-27-70	2-27-71	19.5	22.015	RI70-296.
RI71-249	Gulf Oil Corp.	283	9	Cities Service Gas Co. (Hugoton Field, Seward County, Kans., and Texas County, Okla. Panhandle Area).[13]	1,440	8-14-70	9-14-70	2-14-71	[14] [15] 18.0 [14] [17] 17.0	[15] 18.9 18.9	RI70-1391. RI70-267.
RI71-250	The Stevens County Oil & Gas Co.	21 22	4 4	Plateau Natural Gas Co. (Hugoton Field, Kans.).	440 140	8-21-70 8-21-70	11-18-70 11-18-70	4-18-71 4-18-71	[14] 14.0 14.0	[14] 15.0 [14] 15.0	RI66-68. RI66-68.
RI71-251	Pan American Petroleum Corp.	541	3	Texas Eastern Transmission Corp. (Whelan Field, Harrison County, Tex., RR. District No. 6.	2,190	8-21-70	9-21-70	2-21-71	[14] 15.0	[14] 17.5	
RI71-252	Caroline Hunt Sands	6	3	Panhandle Eastern P/L Co. (Gloden No. 1 Well, Texas County, Okla., Panhandle Area).	50	8-26-70	10-1-70	3-1-71	16.01	17.01	RI68-137.
RI71-253	Pan American Petroleum Corp.	548	2	Michigan Wisconsin P/L Co. (Laverne Gas Area, Harper County, Okla., Panhandle Area).	6,000	8-24-70	9-24-70	2-24-71	[19] [20] 18.0	[19] [20] 20.5	
RI71-254	PetroDynamics, Inc.	19	24	North Natural Gas Co. (Mocane-Laverne Field, Beaver County, Okla., Panhandle Area).	1,962	8-24-70	9-24-70	2-24-71	[19] 19.5	[19] 22.015	RI63-76.
RI71-255	Diamond Shamrock Corp.	57 57	(21) 1	Northern Natural Gas Co. (McKee Plant, Moore County, Tex., RR. District No. 10).	74,525	8-24-70 8-24-70	9-24-70 9-24-70	2-24-71	14.019 [22] [23] 14.019	[22] [23] 17.0	RI70-368.
RI71-256	MWJ Producing Co., Agent.	(24)	(24)	El Paso Natural Gas Co. (Spraberry Field, Reagan County, Tex., RR. District 7-C) [Permian Basin].	1,074	8-24-70	9-24-70	2-24-71	14.5544	[25] 19.3278	RI70-555.
	do	(24)	(24)	do	2,530	8-24-70	9-24-70	2-24-71	14.5544	[26] 19.3278	RI70-555.
	do	(24)	(24)	do	6,205	8-24-70	9-24-70	2-24-71	14.5544	[27] 19.3278	RI70-555.
	do	(24)	(24)	do	3,580	8-24-70	9-24-70	2-24-71	14.5544	[28] 19.3278	RI70-555.
	do	(24)	(24)	do	477	8-24-70	9-24-70	2-24-71	14.5544	[29] 19.3278	RI70-555.
	do	(24)	(24)	do	1,384	8-24-70	9-24-70	2-24-71	14.5544	[30] 19.3278	RI70-555.
	do	(24)	(24)	do	2,291	8-24-70	9-24-70	2-24-71	14.5544	[31] 19.3278	RI70-555.
	do	(24)	(24)	do	811	8-24-70	9-24-70	2-24-71	14.5544	[32] 19.3278	RI70-555.
	do	(24)	(24)	do	483	8-24-70	9-24-70	2-24-71	14.5544	[33] 19.3278	RI70-556.
	do	(34)	(34)	Transwestern Pipeline Co. (Atoka (Penn) Field; Eddy County, N. Mex.) [Permian Basin].	84,316	8-24-70	9-24-70	2-24-71	16.59	[34] 27.3309	RI70-556.
RI71-257	C. R. Gallagher, Jr.	(35)	(35)	Transwestern Pipeline Co. (Waha (Delaware) Field, Reeves County, Tex., RR. District No. 8) [Permian Basin].	19,575	8-24-70	9-24-70	2-24-71	16.573	18.0788	RI70-1144.
RI71-258	Sharples & Co. Properties.	(37)	(37)	El Paso Natural Gas Co. (Pegasus Field, Midland County, Tex.) (RR. District 8-Permian Basin).	3,573	8-17-70	9-17-70	2-17-71	14.50	19.3278	
	do	(37)	(37)	El Paso Natural Gas (Spraberry Field, Reagan County, Tex.) (RR. District 7-C; Permian Basin).	55	8-17-70	9-17-70	2-17-71	14.50	19.3278	

See footnotes at end of table.

APPENDIX—Continued

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf*		Rate in effect subject to refund in dockets Nos.
									Rate in effect	Proposed increased rate	
RI71-259	Albert C. Muse et al	(40)	(41)	El Paso Natural Gas Co. (Spraberry Field, Glasscock County, Tex.) (RR. District 8-Permian Basin).	$4	8-26-70	9-26-70	2-26-71	14.50	19.3278	
	do	(40)	(42)	do	4	8-26-70	9-26-70	2-26-71	14.50	19.3278	
	do	(40)	(43)	do	4	8-26-70	9-26-70	2-26-71	14.50	19.3278	

*Pressure base is 14.65 p.s.i.a. unless otherwise stated.
[1] Pressure base is 15.025 p.s.i.a.
[2] Includes partial reimbursement for the full 2.55 percent New Mexico Emergency School Tax.
[3] Includes 1 cent per Mcf minimum guarantee for liquids.
[4] The proposed rate insofar as it relates to sales from acreage covered by Supplements Nos. 7, 8, and 9 will be suspended for 1 day by separate order.
[5] Both buyer and seller are wholly owned subsidiaries of Pennzoil United, Inc.
[6] Supersedes Pennzoil's FPC Gas Rate Schedules 1-27 and 29-40 and provides for an initial rate of 18.5 cents with 1 cent increases each 5 years, and amends contract measurement provisions to conform to AGA Report No. 3. The superseding contract is accepted effective as of Oct. 1, 1970, but the proposed increased rate of 18.5 cents is suspended for 5 months.
[7] No current deliveries.
[8] Subject to upward and downward B.t.u. adjustment.
[9] Includes base rates of 15 cents before increase and 17 cents after plus upward B.t.u. adjustment.
[10] Includes base rates of 15 cents before increase and 19.5 cents after increase plus upward B.t.u. adjustment, plus tax reimbursement after increase.
[11] Subject to upward and downward B.t.u. adjustment.
[12] Subject to downward B.t.u. adjustment.
[13] Subject to upward B.t.u. adjustment.
[14] Subject to downward B.t.u. adjustment.
[15] Includes 1.4 cents upware B.t.u. adjustment. Base rate subject to upward and downward B.t.u. adjustment.
[16] Applicable only to production from acreage added by supplements Nos. 2, 3, and 4.
[17] Applicable to production from all acreage except that acreage added by supplements, 2, 3, and 4.
[18] No production at present time.
[19] Includes 1 cent upward B.t.u. adjustment.
[20] Subject to upward and downward B.t.u. adjustment.
[21] Contract dated June 10, 1970 (supersedes contract dated Apr. 15, 1951 (Rate Schedule No. 3) which terminated on July 7, 1970), providing for rate of 16 cents for 5-year period beginning July 1, 1970, and rate of 17 cents on July 1, 1975, for remaining contract term which expires on July 1, 1980. Also provides for any higher just and reasonable area ceiling rate that may subsequently be established by the FPC for the quality of gas involved and for seller to deliver an average daily maximum of 40,000 Mcf of residue gas (which is the same contract volumes provided in the Apr. 15, 1951 contract). In all other respects the superseding contract is essentially the same as Apr. 15, 1951 contract. The new contract is accepted effective as of Sept. 24, 1970, but the proposed 17-cent rate is suspended for 5 months.
[22] Subject to downward B.t.u. adjustment.
[23] Includes 1-cent compression charge paid by buyer to seller.
[24] Sales made pursuant to small producer certificate issued in Docket No. CS69-56. Applicant has not rate schedule on file.
[25] Pertains to El Paso contract dated Apr. 10, 1959.
[26] Pertains to El Paso contract dated Sept. 14, 1959.
[27] Pertains to El Paso contract dated May 15, 1965.
[28] Pertains to El Paso contract dated Aug. 3, 1965.
[29] Pertains to El Paso contract dated May 26, 1956.
[30] Pertains to El Paso contract dated May 2, 1958.
[31] Pertains to El Paso contract dated Feb. 14, 1957.
[32] Pertains to El Paso contract dated Mar. 7, 1960.
[33] Pertains to El Paso contract dated Feb. 4, 1957.
[34] Pertains to Transwestern contract dated Mar. 13, 1962.
[35] Sales made pursuant to small producer certificate issued in Docket No. CS66-31. Applicant has no rate schedules on file.
[36] Pertains to contract dated Jan. 1, 1961.
[37] Pertains to contract dated Jan. 1, 1954.
[38] Pertains to contract dated Aug. 28, 1953.
[39] Sales made pursuant to small producer certificate issued in Docket No. CS66-21. Applicant has no rate schedules on file.
[40] No rate schedule on file. Applicant was issued small producer certificate in Docket No. CS66-133.
[41] Pertains to contract dated July 10, 1957.
[42] Pertains to contract dated Sept. 9, 1952.
[43] Pertains to contract dated Apr. 9, 1953.

The proposed increases relating to Carr's FPC Gas Rate Schedule Nos. 1 and 2 include partial reimbursement for the full 2.55 percent New Mexico Emergency School tax. The buyer, El Paso, is expected to protest the tax reimbursement part of these proposed rates. In view of the contractual problem presented, the hearings provided with respect to these increased rate filings shall concern themselves with the contractual basis for such filings as well as the statutory lawfulness of the proposed rates.

Carr, Texaco, Placid, and Gallagher request either a 1-day suspension, waiver of the statutory notice period, or an effective date for which adequate notice was not given. Good cause has not been shown for granting such requests and they are denied.

All of the proposed increased rates and charges exceed the applicable area increased rate ceilings set forth in the Commission's statement of general policy No. 61-1, as amended (18 CFR 2.56).

Gulf previously filed a rate increase to 18 cents per Mcf, designated as Supplement No. 7 to its FPC Gas Rate Schedule No. 283, applicable to all sales under that rate schedule which was suspended in Docket No. RI70-1391 until September 8, 1970. Gulf, on March 16, 1970, filed a correction reflecting the previous increase as applicable only to acreage covered by Supplement Nos. 2 and 3. The corrective change was designated as Supplement No. 7 and suspended in Docket No. RI70-1498 until September 16, 1970. However, it should have been accepted for filing in lieu of the previous increase subject to the existing rate proceeding in Docket No. RI70-1391. Accordingly, Docket No. RI70-1498 is terminated insofar as it relates to Gulf's FPC Gas Rate Schedule No. 283, the corrective change submitted on March 16, 1970, is redesignated as Supplement No. 1 to Supplement No. 7 to Gulf's FPC Gas Rate Schedule No. 283, and such change is accepted for filing subject to the same suspension period now provided in Docket No. RI70-1391 for the earlier filing.

[F.R. Doc. 70-12518; Filed, Sept. 22, 1970; 8:45 a.m.]

[Docket No. CI71-146, etc.]

JONES & PELLOW OIL CO. ET AL.

Notice of Applications

SEPTEMBER 11, 1970.

Take notice that each applicant herein has filed an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection. The Commission announced in its notice issued July 17, 1970, in Docket No. R-389-A that it would accept for consideration applications by independent producers requesting issuance of certificates of public convenience and necessity for sales of natural gas notwithstanding that the stated rates may be in excess of the applicable area ceiling or guideline rates.

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 before the Commission without further notice on all applications for certificates in which no petition to intervene in opposition is filed within the time required if the Commission on its own review of the matter believes that a grant of a certificate is required by the public convenience and necessity. Where a petition for leave to intervene in opposition is timely filed or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Any person desiring to be heard or to make any protest with reference to said applications should on or before October 9, 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 determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

GORDON M. GRANT,
Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
CI71-146..... A 8-19-70	Jones & Pellow Oil Co., 101 Northeast 26th St., Oklahoma City, Okla. 73105.	Panhandle Eastern Pipe Line Co., acreage in Alfalfa County, Okla.	[1] 20.0	14.65
CI71-147..... A 8-19-70	Woods Petroleum Corp., 4900 North Santa Fe, Oklahoma City, Okla. 73118.	Michigan Wisconsin Pipe Line Co., Woodward Area, Woodward County, Okla.	[1] 20.0	14.65
CI71-153..... A 8-18-70	John M. Beard, United Founders Life Tower, 5900 Mosteller Dr., Oklahoma City, Okla. 73112.	Arkansas Louisiana Gas Co., Arkoma Basin Area, Le Flore County, Okla.	17.0	14.65
CI71-154..... A 8-13-70	Beard Oil Co., Suite 200, 2000 Classen Center, Oklahoma City, Okla. 73106.	....do.....	17.0	14.65
CI71-158..... A 8-21-70	Ferguson Oil Co., Inc., Suite 1115, 100 Park Avenue Bldg., Oklahoma City, Okla. 73102.	Arkansas Louisiana Gas Co., acreage in Sebastian County, Ark.	[2] 17.0	14.65
CI71-161..... A 8-24-70	Doric Corp. and Ralph Neely, 1170 First National Bldg., Oklahoma City, Okla. 73102.	Northern Natural Gas Co., McKinney Gas Field, Clark County, Kans.	[2] 19.0	14.65
CI71-165..... (G-3894) A&F 8-25-70	King Resources Co., (successor to Atlantic Richfield Co.) 700 Houston Natural Gas Bldg., Houston, Tex. 77002.	United Gas Pipe Line Co., Ransom Island Area, Nueces County, Tex.	18.5	14.65
CI71-170..... A 8-26-70	Humble Oil & Refining Co., Post Office Box 2180, Houston, Tex. 77001.	El Paso Natural Gas Co., Gomez Area, Pecos County, Tex.	[2] 26.5	14.65
CI71-172..... A 8-27-70	King Resources Co.....	Northern Natural Gas Co., Gomez (Ellenburger) Field, Pecos County, Tex.	[2] 20.5	14.65
CI71-177..... A 8-24-70	Birthright Oil Co., 501 Pere Marquette Bldg., New Orleans, La. 70112.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., Southwest Belle Isle Field, St. Mary and/or Iberia Parishes, La.	21.25	15.025
CI71-178..... A 8-28-70	Daube Partnership, Ltd., et al., Post Office Box 38, Ardmore, Okla. 73401.	Lone Star Gas Co., Sho-Vel-Tum Field, Carter County, Okla.	17.0	14.65
CI71-179..... A 8-28-70	Odessa Natural Gas Corp. (Operator) et al., Post Office Box 3986, Odessa, Tex. 79760.	Kansas-Nebraska Natural Gas Co., Inc., Castle Garden Field, Fremont County, Wyo.	[1] 18.0	14.65
CI71-180..... A 8-27-70	G. R. Schimmel, d.b.a. Schimmel Oil Co. et al., Petroleum Center Bldg., 900 Northeast Military Dr., San Antonio, Tex. 78209.	Texas Eastern Transmission Corp., Marsden Field Area, Live Oak County, Tex.	17.8	14.65
CI71-183..... A 8-31-70	Humble Oil & Refining Co.....	Transwestern Pipeline Co., South Carlsbad Field, Eddy County, N. Mex.	[2] 18.5	14.65
CI71-185..... A 8-31-70	Shell Oil Co., 1 Shell Plaza, Houston, Tex. 77002.	United Gas Pipe Line Co., Learned Field, Hinds County, Miss.	[1] 23.0	15.025

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to acreage.
E—Succession.
F—Partial succession.

[1] Subject to upward and downward B.t.u. adjustment.
[2] Subject to reduction for compression, if required.

[F.R. Doc. 70-12522; Filed, Sept. 22, 1970; 8:45 a.m.]

[Docket No. RI71-260]

PAN AMERICAN PETROLEUM CORP.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

SEPTEMBER 11, 1970.

The respondents named herein have filed proposed changes in rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act: *Provided, however,* That the supplements to the rate schedules filed by respondents, as set forth herein, shall become effective subject to refund on the date and in the manner herein prescribed if within 20 days from the date of the issuance of this order respondents shall each execute and file under its above-designated docket number with the Secretary of the Commission its agreement and undertaking to comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, accompanied by a certificate showing service of copies thereof upon all purchasers under the rate schedule involved. Unless respondents are advised to the contrary within 15 days after the filing of their respective agreements and undertakings, such agreements and undertakings shall be deemed to have been accepted.[2]

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before October 30, 1970.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[1] Does not consolidate for hearing or dispose of the several matters herein.

[2] If an acceptable general undertaking, as provided in Order No. 377, has previously been filed by a producer, then it will not be necessary for that producer to file an agreement and undertaking as provided herein. In such circumstances the producer's proposed increased rate will become effective as of the expiration of the suspension period without any further action by the producer.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf* Rate in effect	Cents per Mcf* Proposed increased rate	Rate in effect subject to refund in dockets Nos.
RI71-260.....	Pan American Petroleum Corp.[1]	148	[1]13	Arkansas Louisiana Gas Co. (Sentell field Bossier Parish, north Louisiana).	.....	8-14-70	9-14-70	Accepted	14.8533	.....	
		148	14		$1,703	8-14-70	9-14-70	9-15-70	14.8533	15.75	
		175	12		.....	8-14-70	9-14-70	Accepted	14.8533	.....	
		175	13		8,127	8-14-70	9-14-70	9-15-70	14.8533	15.75	

*Pressure base is 15.025 p.s.i.a.
[1]Letter agreement dated July 17, 1970, which provides for rates of 19 cents and 21 cents, inclusive of tax reimbursement, for gas produced from formations above and below the base of the Bodcaw sand, respectively. Also provides that price shall never be less than the applicable area price level announced in General Policy Statement No. 61.1 as now or hereafter amended or the applicable area price level established in any rate proceeding governing the pricing area involved.

The rates proposed by Pan American do not exceed the area increased rate ceiling, but Pan American is contractually due higher rates and has not agreed to waive its contractual right to file for such higher rates. In these circumstances, we shall suspend Pan American's proposed increases for 1 day. However the related letter agreements will be accepted effective upon the expiration of statutory notice, subject to the express condition that the provision contained in section 9(c) of each of the letter agreements will only be applicable upon the Commission's approval of a just and reasonable rate or a settlement rate in an applicable area rate proceeding. The condition is inserted because these provisions do not accord fully with § 154.93(b-1) of the Commission's regulations.

[F.R. Doc. 70-12517; Filed, Sept. 22, 1970; 8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

KAUFMAN AND BROAD, INC.

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

SEPTEMBER 16, 1970.

In the matter of application of the Philadelphia - Baltimore - Washington Stock Exchange for unlisted trading privileges in a certain security.

The above-named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the warrants to purchase common stock of the following company, which security is listed and registered on one or more other national securities exchanges:

Kaufman and Broad, Inc., Warrants (expiring Mar. 1, 1974), File No. 7-3458.

Upon receipt of a request, on or before October 1, 1970, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 70-12633; Filed, Sept. 22, 1970; 8:49 a.m.]

AMREP CORP. ET AL.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

SEPTEMBER 16, 1970.

In the matter of applications of the Philadelphia-Baltimore-Washington Stock Exchange for unlisted trading privileges in certain securities.

The above-named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
Amrep Corp	7-3443
Beverly Enterprises	7-3444
Computing & Software, Inc	7-3445
Damon Corp	7-3446
Dearborn Computer & Marine Corp	7-3447
Extendicare, Inc	7-3448
Guerdon Industries, Inc	7-3449
Itel Corp	7-3450
Mesa Petroleum Co	7-3451

Upon receipt of a request, on or before October 1, 1970, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 70-12634; Filed, Sept. 22, 1970; 8:49 a.m.]

MOBILE HOME INDUSTRIES, INC., ET AL.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

SEPTEMBER 16, 1970.

In the matter of applications of the Philadelphia - Baltimore - Washington Stock Exchange for unlisted trading privileges in certain securities.

The above-named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
Mobile Home Industries, Inc	7-3452
Talley Industries, Inc	7-3453
Tesoro Petroleum Corp. (Delaware)	7-3454
Tokheim Corp	7-3455
Wang Laboratories, Inc	7-3456
Zimmer Homes Corp	7-3457

Upon receipt of a request, on or before October 1, 1970, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to any particular

application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 70-12635; Filed, Sept. 22, 1970; 8:49 a.m.]

[812-2594]

MONITOR FUND, INC.

Notice of Filing of Application for Order Declaring That Company Has Ceased To Be an Investment Company

SEPTEMBER 16, 1970.

Notice is hereby given that Monitor Fund, Inc. (Applicant), 880 Locust Street, Dubuque, Iowa 52001, a Maryland corporation registered as an open-end, diversified management investment company under the Investment Company Act of 1940 (Act), has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

Applicant, which represents it has not offered its shares to the public since July 1969, held a special meeting of shareholders on March 26, 1970, at which time more than two-thirds of shareholders voted to accept a Plan of Dissolution and Liquidation (Plan) set forth in the call of the meeting. Following the adoption of the Plan and pursuant to the shareholder vote, Applicant sold all of the securities it was holding and distributed 90 percent of the net proceeds thereof to its stockholders pro rata. If an order pursuant to section 8(f) of the Act is issued and Applicant is deregistered as an investment company, Applicant intends to pay any accrued liabilities out of the assets remaining in its hands and to dissolve and to distribute any balance of the assets which may be remaining thereafter among its shareholders. Applicant represents that it has no known creditors except counsel. Applicant further states that its Articles of Dissolution were filed with and accepted by the State of Maryland.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission upon application finds that a registered investment company has ceased to be an investment company, it shall so declare by order and upon taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than October 7, 1970, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in the case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing thereon shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 70-12636; Filed, Sept. 22, 1970; 8:49 a.m.]

SMALL BUSINESS ADMINISTRATION

MID-TEX CAPITAL CORP.

Surrender of License To Operate as Small Business Investment Company

Notice is hereby given that Mid-Tex Capital Corp. (Mid-Tex) has, pursuant to § 107.105 of the regulations governing small business investment companies (33 F.R. 326, 13 CFR Part 107) surrendered its license to operate as a small business investment company (SBIC).

Mid-Tex was incorporated on January 18, 1961, under the laws of the State of Texas to operate solely as an SBIC under the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.) (Act), and it was issued license number 10-0039 by the Small Business Administration on April 6, 1961.

Under the authority vested by the Act, and the regulations promulgated thereunder, the surrender of the license of Mid-Tex is hereby accepted and, accordingly, it is no longer licensed to operate as an SBIC.

A. H. SINGER,
Associate Administrator for Investment.

SEPTEMBER 8, 1970.

[F.R. Doc. 70-12667; Filed, Sept. 22, 1970; 8:51 a.m.]

[License No. 02/02-5285]

VANGUARD CAPITAL CORP.

Notice of Application for a License as a Minority Enterprise Small Business Investment Company

An application for a license to operate as a minority enterprise small business investment company (MESBIC) under the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.), has been filed by Vanguard Capital Corp. (applicant) with the Small Business Administration (SBA) pursuant to section 107.102 of the SBA Regulations governing small business investment companies (13 CFR Part 107; 33 F.R. 326).

The officers, directors, and sole stockholder of the applicant are as follows:

Frederick W. Jackson, 5 Valley Field Road, Westport, Conn. 06880, President, Director.
Kenneth N. Kermes, 14 Flicker Lane, Rowayton, Conn. 06853, Treasurer, Director.
William T. Green, 15 Moultrie Avenue, Yonkers, N.Y. 10710, Assistant Treasurer, Director.
Rose-Marie Schmitt, 120 Randolph Road, White Plains, N.Y. 10607, Secretary.
Robert P. Bauman, 15 Heartstone Lane, Wilton, Conn. 06897, Director.
Bruce L. Bozeman, 63 Shore View Drive No. 4, Yonkers, N.Y. 10710, Director.
Joan F. Epps, 22 Bonnefoy Place, New Rochelle, N.Y. 10805, Director.
John M. Keenan, 25 Ludlow Drive, Chappaqua, N.Y. 10514, Director.
Thomas D. McCann, 20 Salem Road, Chappaqua, N.Y. 10514, Director.
Mohan Mehra, 2261 Palmer Avenue, New Rochelle, N.Y. 10801, Director.
General Foods Corp., 250 North Street, White Plains, N.Y. 10602, Sole stockholder.

The applicant, a Delaware corporation with a place of business located at 250 North Street, White Plains, N.Y. 10602, will begin operations with $150,000 of paid-in capital consisting of 1,000 shares of common stock. All of the issued and outstanding stock will be owned by General Foods Corp., a large publicly owned company, with offices located at 250 North Street, White Plains, N.Y. 10602.

Applicant will not concentrate its investments in any particular industry. According to the company's stated investment policy, its investments will be made solely in small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such small concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owners and management and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA regulations.

Any interested person may, not later than 10 days from the date of publication of this notice, submit to SBA, in writing, relevant comments on the proposed MESBIC. Any such communication

should be addressed to the Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in White Plains, N.Y.

A. H. SINGER,
Associate Administrator for Investment.

SEPTEMBER 8, 1970.

[F.R. Doc. 70-12666; Filed, Sept. 22, 1970; 8:51 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

SEPTEMBER 18, 1970.

Protests to the granting of an application must be prepared in accordance with § 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. 42050—*Superphosphate and phosphatic fertilizer solution from points in Utah.* Filed by Colorado-Utah-Wyoming Committee, agent (No. 9), for interested rail carriers. Rates on superphosphate and phosphatic fertilizer solution, in carloads and tank carloads, as described in the application, from specified points in Utah, to points in Colorado, Iowa, Kansas, Missouri, Nebraska, and Wyoming.

Grounds for relief—Shortline distance formula and grouping.

Tariffs—Supplement 128 to Colorado-Utah-Wyoming Committee, agent, tariff ICC 27, and supplement 345 to Western Trunk Line Committee, agent, tariff ICC A-4411.

FSA No. 42051—*Titanium dioxide to Hopkins, Minn.* Filed by O. W. South, Jr., agent (No. A6198), for interested rail carriers. Rates on titanium dioxide, in carloads, as described in the application, from Savannah, Ga., to Hopkins, Minn.

Grounds for relief—Market competition.

Tariff—Supplement 53 to Southern Freight Association, agent, tariff ICC S-838.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Acting Secretary.

[F.R. Doc. 70-12678; Filed, Sept. 22, 1970; 8:52 a.m.]

[Notice 21]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

SEPTEMBER 18, 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 13300 (Deviation No. 15), CAROLINA COACH COMPANY, 1201 South Blount Street, Post Office Box 1591, Raleigh, N.C. 27602, filed September 10, 1970. Carrier's representative: James E. Wilson, 1735 K Street NW., Washington, D.C. 20006. 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: From junction North Carolina Highway 305 and 561 (approximately 7 miles east of Rich Square, N.C.), over North Carolina Highway 561 to Ahoskie, N.C., and return over the same route, 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: From Tarboro, N.C., over U.S. Highway 258 to Rich Square, N.C., thence over North Carolina Highway 305 to Aulander, N.C., thence over North Carolina Highway 350 to Ahoskie, N.C., thence over U.S. Highway 13 to Suffolk, Va., thence over combined U.S. Highway 13, 58, and 460 to Bowers Hill, Va., thence over U.S. Highway 58 to Norfolk, Va., and return over the same route.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Acting Secretary.

[F.R. Doc. 70-12680; Filed, Sept. 22, 1970; 8:52 a.m.]

[Notice 31]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

SEPTEMBER 18, 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 Property, 1969 (49 CFR 1042.4(d)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4(d)(11)).

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 1042.4(d)(12)) 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 PROPERTY

No. MC 48958 (Deviation No. 22), ILLINOIS-CALIFORNIA EXPRESS, INC., 510 East 51st Avenue, Denver, Colo. 80216, filed September 11, 1970. Carrier's representative: Morris G. Cobb, Post Office Box 9050, Amarillo, Tex. 79105. Carrier proposes to operate as a *common carrier*, by motor vehicle, of general commodities, with certain exceptions, over a deviation route as follows: From junction U.S. Highway 60 and U.S. Highway 95, approximately two miles east of Blythe, Calif., over U.S. Highway 95 to junction U.S. Highway 66, thence over U.S. Highway 66 (Interstate Highway 40) to junction U.S. Highway 93, thence over U.S. Highway 93 to junction U.S. Highway 91 (Interstate Highway 15), thence over U.S. Highway 91 (Interstate Highway 15) to Salt Lake City, Utah, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Colton, Calif., over U.S. Highway 99 to Indio, Calif., thence over U.S. Highway 60 to Wickenburg, Ariz., thence over U.S. Highway 89 to Ashfork, Ariz., (2) from Los Angeles, Calif., over U.S. Highway 66 via San Bernardino, Calif., to Albuquerque, N. Mex., thence over U.S. Highway 85 to Denver, Colo., and (3) from Salt Lake City, Utah, over U.S. Highway 91 to Levan, Utah, thence over Utah Highway 28 to Gunnison, Utah (also from Salt Lake City over U.S. Highway 89 to Gunnison), thence over U.S. Highway 89 to junction Alternate U.S. Highway 89 at or near Kanab, Utah, thence over Alternate U.S. Highway 89 to junction U.S. Highway 89, thence over U.S. Highway 89 to Flagstaff, Ariz., thence over Interstate Highway 17 to Phoenix, Ariz., and return over the same routes.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Acting Secretary.

[F.R. Doc. 70-12681; Filed, Sept. 22, 1970; 8:52 a.m.]

[Notice 87]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

SEPTEMBER 18, 1970.

The following publications are governed by § 1.247 of the Commission's

rules of practice, published in the FEDERAL REGISTER issue of April 20, 1966, which became effective May 20, 1966.

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.

APPLICATIONS ASSIGNED FOR ORAL HEARING

MOTOR CARRIERS OF PROPERTY

No. MC 124796 (Sub-No. 55) (Clarification), filed January 29, 1970, published FEDERAL REGISTER, issue of March 12, 1970, and republished as amended April 16, 1970, corrected, issue of April 30, 1970, and further clarified this issue. Applicant: CONTINENTAL CONTRACT CORP., 15045 East Salt Lake Avenue, Post Office Box 1257, City of Industry, Calif. 91747. Applicant's representative: J. Max Harding, 605 South 14th Street, Post Office Box 2028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (A) *Toilet preparations, toilet articles, germicides, buffing and polishing compounds, cleaning, scouring, and washing compounds, solvents, starch, sponges, sweetening compounds, drugs and janitorial supplies and advertising materials*, from Chicago, Melrose Park, Carpentersville, and Carol Stream, Ill.; Sparks, Nev.; Glendale, Calif.; Piscataway, N.J.; Atlanta and Stone Mountain, Ga.; Dallas, Tex.; Denver, Colo.; Kansas City, Mo.; Portland, Oreg.; Seattle, Wash.; Jacksonville, Fla.; Boston, Mass.; Cleveland, Ohio; Birmingham, Ala.; Oklahoma City, Okla.; New Orleans, La.; Little Rock, Ark.; and Houston and Fort Worth, Tex., to all points in the United States (except Alaska and Hawaii); and (B) *canned and packaged foodstuffs*, from Chicago and Carol Stream, Ill., and Sparks, Nev., to all points in the United States (except Alaska and Hawaii), and *returned shipments, materials, equipment, and supplies utilized in the manufacture, distribution and sale of the commodities* described in (a) and (b) above, in the reverse direction, restricted against the transportation of commodities in bulk, and all traffic to either originate or terminate at the plantsites and warehouse facilities utilized by Alberto-Culver Co. NOTE: The purpose of this republication is to clarify the territory proposed to be served.

HEARING: Remains assigned October 26, 1970, in Room 474, Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, Ill. before Examiner J. Roger Corcoran.

No. MC 56679 (Sub-No. 29) (Republication), filed December 13, 1969, published in the FEDERAL REGISTER issue of January 16, 1969, and republished this issue. Applicant: BROWN TRANSPORT CORP., 125 Milton Avenue SE., Atlanta, Ga. 30315. Applicant's representative: B. K. McClain (same address as applicant). A decision and order of the Commission dated August 31, 1970, and served September 16, 1970, as corrected, finds; upon consideration of the application as amended, and the record in the proceeding, including the report and recommended order of the Examiner, 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 (1) dairy products, as described in section B of appendix I to the report, *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, 766; and (2) butter oil, cheese foods, eggnog, milk products, beverage preparations, dessert preparations, and advertising and repacking materials pertinent to the above commodities, from points in Minnesota and Wisconsin (except Milwaukee and points within the Milwaukee commercial zone), to points in Alabama, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia, restricted (a) against the transportation of commodities in bulk; (b) to shipments originating at the facilities of Land O'Lakes Creameries, Inc. (or members thereof), and Galloway-West Co.; and (c) to shipments destined to points in the above-named destination States. Because it is possible that other persons who have relied upon the notice of the application in No. MC 56679 (Sub-No. 29), as published in the FEDERAL REGISTER may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the above-numbered proceeding in the findings in this order, a notice of the authority actually granted in such proceeding will be published in the FEDERAL REGISTER and issuance of a certificate in such 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 128044 (Sub-No. 4) (Republication), filed October 28, 1969, published in the FEDERAL REGISTER issue of November 27, 1969, and republished this issue. Applicant: MIRACLE TRANSPORTATION CORP., 245 Cornelison Avenue, Jersey City, N.J. 07302. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. A recommended report and order of the Examiner which was served July 31, 1970, and which became effective August 8, 1970, and served September 8, 1970, 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 of aquariums, and aquarium parts, accessories and supplies, and pet supplies and accessories, and pet foods (except commodities in bulk), between Jersey City and Pine Brook, N.J., on the one hand, and, on the other, points in Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, under continuing contracts with Miracle Pet Products, Inc., of Jersey City, N.J., Bader Industries, Inc., of Pine Brook, N.J., and National Pet Supply, of Jersey City, N.J. 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 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.

NOTICE OF FILING OF PETITION

No. MC 129574 and No. MC 129574 (Sub-No. 1) (Notice of Filing of Petition for Modification of Permit), filed August 31, 1970. Petitioner: FRANK R. CHULLINO, doing business as MIDWEST TRANSPORTATION COMPANY, Council Bluffs, Iowa 51501. Petitioner's representative: Einar Viren, 904 City National Bank Building, Omaha, Nebr. 68102. Petitioner states that it holds authority in No. MC 129574 and Sub 1 to operate as a contract carrier, transporting: Alcoholic beverages (except malt beverages), in containers, from points in New York, Indiana, Pennsylvania, Illinois, Ohio, Michigan, Kentucky, Massachusetts, New Jersey, Maryland, Connecticut, and Missouri to Omaha, Nebr., with no transportation for compensation on return except as otherwise authorized, under a continuing contract, or contracts, with Sterling Distributing Co., and United Distillers Products Co., both of Omaha, Nebr. By the instant petition, petitioner requests permission to add the following contracting shippers: Western Wine & Liquor Co., Louis Finocchiaro, Inc., and Ed Phillips & Sons Co., all corporations of Omaha, Nebr. 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.

APPLICATIONS FOR CERTICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE

No. MC 4966 (Sub-No. 17), filed September 2, 1970. Applicant: JONES

TRANSFER COMPANY, a corporation, 300 Jones Avenue, Monroe, Mich. 48161. Applicant's representative: Rex Eames, 900 Guardian Building, Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: *General commodities* (except classes A and B explosives, and household goods as defined by the Commission). Regular routes: (1) Between Whitehouse, Ohio, and Toledo, Ohio, from Whitehouse over Ohio Highway 64 to Waterville, thence over U.S. Highway 24 to Toledo, and return over the same routes, serving the intermediate point of Waterville only. Irregular routes: (2) Between Whitehouse, Ohio, on the one hand, and, on the other, points in Ohio, and (3) Between Toledo, Ohio, on the one hand, and, on the other, points in Ohio. NOTE: Applicant states that Toledo, Ohio will be the joinder point affording a through service between points in Ohio, on the one hand, and, on the other, points in southeastern Michigan. This application is a matter directly related to MC-F-10914, published in the FEDERAL REGISTER issue of August 12, 1970, wherein applicant seeks to convert the certificate of registration of W & W Express, Inc., under MC 128535 into a certificate of public convenience and necessity. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich.

No. MC 124692 (Sub-No. 73), filed September 2, 1970. Applicant: SAMMONS TRUCKING, Post Office Box 933, Missoula, Mont. 59801. Applicant's representative: Donald W. Smith, 900 Circle Tower, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm implements, parts and attachments* (other than farm tractors or self-propelled farm machinery), from Hopkins, Minn., to points in Colorado, Idaho, Kansas, Montana, Nebraska, South Dakota, North Dakota, Oregon, Utah, Washington, and Wyoming, restricted to traffic originating at the plantsite of Farmhand, Inc., at Hopkins, Minn., destined to the States named. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. This matter is directly related to MC-F-10938 published in FEDERAL REGISTER issue of September 9, 1970. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Chicago, Ill.

No. MC 19553 (Sub-No. 32), filed September 8, 1970. Applicant: KNOX MOTOR SERVICE, INC., 5680 11th Street, Post Office Box 359, Rockford, Ill. 61105. Applicant's representatives: Thomas A. Graham or Paul J. Maton, Suite 1620, 10 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular 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); (1) Regular routes: serving all points within an area, including all points and places on the boundaries of said area described in a circuitous manner as follows: Beginning at Havana, Ill., thence south on Illinois State Route 78 to its junction with the north boundary line of Morgan County, Ill.; thence west on the north boundary line of Morgan County, Ill., to its junction with Illinois State Route 100; thence south on Illinois State Route 100 to its junction with U.S. Routes 36 and 54; thence east on U.S. Routes 36 and 54 to their junction with Illinois State Route 106; thence east and thence south on Illinois State Route 106 to its junction with Illinois State Route 267; thence south and southeast on Illinois State Route 267 to its junction with the north boundary line of Madison County, Ill.; thence east on the north boundary lines of Madison and Bond Counties, Ill., to the junction of the north boundary line of Bond County, Ill., with the west boundary line of Fayette County, Ill., thence north on the west boundary line of Fayette County, Ill., to its junction with Illinois State Route 185; thence southeast on Illinois State Route 185 to Vandalia, Ill., thence north on U.S. Route 51 to its junction with the north boundary line of Fayette County, Ill., thence east on the north boundary lines of Fayette and Effingham Counties, Ill., to the junction of the north boundary line of Effingham County, Ill., with Illinois State Route 32; thence north on Illinois State Route 32 to its junction with U.S. Route 36; thence west on U.S. Route 36 to Decatur, Ill., thence north on U.S. Route 51 to its junction with U.S. Route 136; thence west on U.S. Route 136 to the place of beginning, as off-route points in connection with applicant's authorized regular route operations; and

(2) *Irregular routes:* Between points and places within an area including all points on the boundaries of said area described as follows: Beginning at Havana, Ill., thence south on Illinois State Route 78 to its junction with the north boundary line of Morgan County, Ill., thence west on the north boundary line of Morgan County, Ill., to its junction with Illinois State Route 100; thence south on Illinois State Route 100 to its junction with U.S. Routes 36 and 54; thence east on U.S. Routes 36 and 54 to their junction with Illinois State Route 106; thence east and thence south on Illinois State Route 106 to its junction with Illinois State Route 267; thence south and southeast on Illinois State Route 267 to its junction with the north boundary line of Madison County, Ill., thence east on the north boundary lines of Madison and Bond Counties, Ill., to the junction of the north boundary line of Bond County, Ill., with the west boundary line of Fayette County, Ill., thence north on the west boundary line of Fayette County, Ill., to its junction with Illinois State Route 185; thence southeast on Illinois State Route 185 to Vandalia, Ill., thence north on U.S. Route 51 to its junction with the north boundary line of Fayette County, Ill., thence east on the north boundary lines of Fayette and Effingham Counties, Ill., to the junction of the north boundary line of Effingham Counties, Ill., to the junction of the north boundary line of Effingham County, Ill., with Illinois State Route 32; thence north on Illinois State Route 32 to its junction with U.S. Route 36; thence west on U.S. Route 36 to Decatur, Ill., thence north on U.S. Route 51 to its junction with U.S. Route 136; thence west on U.S. Route 136 to the place of beginning, on the one hand, and, on the other, points in Illinois, restricted to shipment originating at or destined to points in said described area. NOTE: Applicant proposes to join the authority sought herein with its existing authority at Havana, Ill., and points within its commercial zone, the junction of Illinois Highway 29 and U.S. Highway 136 and Illinois Highway 121 and U.S. Highway 136, and to provide through service between all points applicant is presently authorized to serve and all points applicant seeks to serve in the instant application. This application is a matter directly related to MC-F-10940, published in the FEDERAL REGISTER September 16, 1970, wherein applicant seeks to convert the certificate of registration of James D. Cole under MC 42708 (Sub-No. 2) into a certificate of public convenience and necessity. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Springfield, Ill., or Chicago, Ill.

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-10945. Authority sought for purchase by WESTERN GILLETTE, INC., 2550 East 28th Street, Los Angeles, Calif. 90058, of a portion of the operating rights of DEATON, INC., 317 Ave., West Birmingham, Ala. 35201, and for acquisition by DONALD E. CANTLAY, also of Los Angeles, Calif., of control of such rights through the purchase. Applicants' attorneys: A. Alvis Layne, Pennsylvania Building, Washington, D.C. 20004, and Theodore W. Russell, 1545 Wilshire Boulevard, Los Angeles, Calif. 90017. 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 Birmingham, Ala., and Nesbit, Miss., serving Tupelo, Miss., as an intermediate point for purposes of joinder only, between Piedmont, Ala., and Tupelo, Miss., between Gadsden, Ala., and Birmingham, Ala., between Memphis, Tenn., and Nesbit, Miss., serving Banks, Eudora, Prichard, Savage, and Arkabutla, Miss., as off-route points, between Atlanta, Ga., and Piedmont, Ala., between Memphis,

Tenn., and Tupelo, Miss., as an alternate route for operating convenience only, serving no intermediate points, between Memphis, Tenn., and junction Alabama Highway 67 and U.S. Highway 31 at or near Decatur, Ala., as an alternate route for operating convenience only, serving no intermediate points, with restriction;

General commodities, excepting among others, classes A and B explosives, household goods and commodities in bulk, as a *common carrier* over irregular routes, between Atlanta, Ga., and those points in that part of Georgia bounded by a line beginning at the junction of Georgia Highways 61 and 20, at or near Cartersville, Ga., and extending east along Georgia Highway 20 to junction U.S. Highway 41–19, at or near Hampton, Ga., thence south along U.S. Highway 41–19 to junction Georgia Highway 16, at or near Griffin, Ga., thence west along Georgia Highway 16 to junction Alternate U.S. Highway 27, southeast of Newnan, Ga., thence in a northwesterly direction along Alternate U.S. Highway 27 to junction Georgia Highway 166 at or near Carrollton, Ga., thence in a northeasterly direction along Georgia Highway 166 to junction Georgia Highway 61, and thence north along Georgia Highway 61 to junction Georgia Highway 20, on the one hand, and, on the other, Piedmont, Ala., serving Piedmont for purposes of joinder only. Vendee is authorized to operate as a *common carrier* in Illinois, Arizona, California, Texas, Nevada, New Mexico, Oklahoma, Missouri, Arkansas, Tennessee, Kansas, Indiana, Nebraska, Utah, Idaho, Colorado, Montana, Alabama, Florida, Georgia, Michigan, New York, North Dakota, Oregon, Pennsylvania, South Dakota, Vermont, Washington, Wyoming, Louisiana, Maryland, and Mississippi. Application has not been filed for temporary authority under section 210a(b). NOTE: No. MC 11207 Sub 299 is a matter directly related.

No. MC–F–10946. Authority sought for control by AMERICAN COURIER CORPORATION, 2 Nevada Drive, Lake Success, N.Y. 11040, of (1) ARMORED MOTOR SERVICE OF ARIZONA, INCORPORATED, 712 East Roosevelt Street, Phoenix, Ariz. 85006, and (2) SECURITIES TRANSPORT COMPANY, INCORPORATED, 712 East Roosevelt Street, Phoenix, Ariz. 85006, and for acquisition by PUROLATOR, INC., 970 New Brunswick Avenue, Rahway, N.J. 07065, of control of (1) ARMORED MOTOR SERVICE OF ARIZONA, INCORPORATED, and (2) SECURITIES TRANSPORT COMPANY, INCORPORATED, through the acquisition by AMERICAN COURIER CORPORATION. Applicants' attorneys: John M. Delany, 2 Nevada Drive, Lake Success, N.Y. 11040 and Russell S. Bernhard, 1625 K Street NW., Washington, D.C. 20006. Operating rights sought to be controlled: (1) *Coin currency, securities, and valuables*, in armored or armed guard car service, as a *contract carrier* over irregular routes between points in Arizona; coin currency and securities, between Los Angeles, Calif., on the one hand, and, on the other, points in Arizona, with restriction; (2) in pending Docket No. MC–134213 Sub 1 TA, covering the transportation of exposed and processed film and prints, complimentary replacement film, incidental dealer handling supplies and advertising literature moved therewith, and microfilm, as a common carrier over irregular routes, between Phoenix, Ariz., and points in Arizona; in pending Docket No. MC–134213 Sub–2, covering the transportation of exposed and processed film and prints, complimentary replacement film, incidental dealer handling supplies and advertising literature moved therewith, and microfilm, between Phoenix, Ariz., and points in Arizona; and in pending Docket No. MC–134213 Sub–3, covering the transportation of business records and reports, including payroll checks, records, and reports; data processing records; utility meter books, and related utility records, between Phoenix, Ariz., and points in Arizona, excluding Navajo and Apache Counties, restricted to traffic having a prior or subsequent out-of-state movement by air.

AMERICAN COURIER CORPORATION is authorized to operate as a *common carrier* in Connecticut, Massachusetts, Maine, New Hampshire, New Jersey, Pennsylvania, New York, Iowa, Illinois, Nebraska, Kentucky, Ohio, West Virginia, Rhode Island, Michigan, Indiana, Maryland, Virginia, Delaware, Wisconsin, Missouri, Minnesota, North Dakota, South Dakota, Kansas, North Carolina, Texas, Louisiana, Vermont, Alabama, Georgia, Arkansas, Mississippi, Oklahoma, Florida, South Carolina, California, and the District of Columbia; and as a *contract carrier* in New York, New Jersey, Connecticut, Pennsylvania, West Virginia, Ohio, Massachusetts, Delaware, Virginia, Maryland, Rhode Island, Iowa, Missouri, Illinois, Indiana, Kentucky, Minnesota, Wisconsin, Maine, New Hampshire, Nebraska, Vermont, Michigan, North Dakota, South Dakota, North Carolina, Alabama, Georgia, Tennessee, South Carolina, Texas, Mississippi, Oklahoma, and Florida. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–10947. Authority sought for purchase by PEP LINES TRUCKING CO., 15120 Third Street, Highland Park, Mich. 48203, of a portion of the operating rights of SIGNAL DELIVERY SERVICE, INC., 930 North York Road, Hinsdale, Ill. 60521, and for acquisition by LEASEWAY TRANSPORTATION CORP., and in turn by H. M. O'NEILL, F. J. O'NEILL, and W. J. O'NEILL all of 21111 Chagrin Boulevard, Cleveland, Ohio 44122, of control of such rights through the purchase. Applicants' attorneys: J. A. Kundtz, 1100 National City Bank Building, Cleveland, Ohio 44114 and Roland Rice, Suite 618, Perpetual Building, 1111 E Street NW., Washington, D.C. 20004. Operating rights sought to be transferred: *Such merchandise* as is dealt in by mail-order and chain retail department stores, as a *contract carrier* over irregular routes, from Detroit, Mich., to Ann Arbor, Saginaw, and Port Huron, Mich., with restriction, between the stores and other places of business of Montgomery Ward and Co., Inc., located in the Baltimore, Md., commercial zone, as defined by the Commission, on the one hand, and, on the other, its stores and places of business in the Washington, D.C., commercial zone, as defined by the Commission, from the stores and other places of business of Montgomery Ward & Co., Inc., (a) located in the Baltimore, Md., commercial zone, as defined by the Commission, to points in Adams, York, Lancaster, and Chester Counties, Pa., and New Castle County, Del., (b) located in the Washington, D.C., commercial zone, as defined by the Commission, to points in Fairfax, Loudoun, Prince William, Fauquier, and Stafford Counties, Va., and St. Marys, Charles, Calvert, Prince Georges, Anne Arundel, Montgomery, Howard, Baltimore, Frederick, and Carroll Counties, Md., from the distribution center of Montgomery Ward & Co., Inc., located in Allen Park, Mich., to points in Oakland, Macomb, St. Clair, Genesee, and Washtenaw Counties, Mich., with restriction; from the stores and other places of business of Montgomery Ward & Co., Inc., located in Baltimore, Md., to points in Adams, York, Lancaster, Franklin, Cumberland, Perry, Dauphin, Lebanon, and Berks Counties, Pa., from the stores and other places of business of Montgomery Ward & Co., Inc., located at points in York County, Pa., to points in Adams, York, Lancaster, Franklin, Cumberland, Perry, Dauphin, Lebanon, and Berks Counties, Pa., and points in Baltimore, Harford, Cecil, and Carroll Counties, Md.;

Returned shipments of such merchandise as is dealt in by mail-order and chain retail department stores, from the destination points specified in the two service paragraphs next above to the origin points specified therein, from the above-specified destination points to the respective origins described herein, with restriction; *such commodities* as are sold by retail stores, as a *common carrier* over irregular routes, between points in the District of Columbia, between points in the Washington, D.C., commercial zone, as defined by the Commission, on the one hand, and, on the other, points in Fairfax County, Va., Anne Arundel, Charles, Howard and St. Marys Counties, Md., and that part of Montgomery and Prince Georges Counties, Md., not included in said commercial zone, from Washington, D.C., to Alexandria, Va., and points in Arlington County, Va.; *damaged or rejected shipments* of the above-specified commodities, from Alexandria, Va., and points in Arlington County, Va., to Washington, D.C., with restriction; *toilet preparations, soaps, cosmetics, premiums, and related advertising materials*, in retail delivery service, from Baltimore, Md., to points in Anne Arundel, Baltimore, Calvert, Carroll, Cecil, Charles, Frederick, Harford, Howard, Montgomery, Prince Georges, and St. Marys Counties, Md., with restriction. Vendee is authorized to operate as a *common carrier* in Michigan. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–10948. Authority sought for purchase by CLAY HYDER TRUCKING LINES, INC., 502 East Bridgers Avenue, Auburndale, Fla. 33823, of a portion of the operating rights of BILYEU REFRIGERATED TRANSPORT CORPORATION, Box 688, Marshall, Mo. 65340, and for acquisition by COMMERCIAL CARRIER CORPORATION and in turn by GUY BOSTICK, both of 502 East Bridgers Avenue, Auburndale, Fla., of control of such rights through the purchase. Applicants' attorney: M. Craig Massey, 202 East Walnut Street, Post Office Drawer J, Lakeland, Fla. 33802. Operating rights sought to be transferred: *Food products, and agricultural commodities* the transportation of which is not otherwise subject to economic regulation, when moving in mixed loads with food products, as a *common carrier* over irregular routes, from California, Mo., to points in Colorado, Iowa, Kansas, Nebraska, North Dakota, and South Dakota, with restriction; *frozen bakery products,* from Lake City, Pa., to points in Missouri; *closures for bottles, glasses, or jars,* from New Market, N.J., to points in Arkansas, Kansas, Missiouri, Nebraska, Oklahoma, and points in that part of Tennessee on and west of Interstate Highway 65. Vendee is authorized to operate as a *common carrier* in North Carolina, Florida, Georgia, South Carolina, Tennessee, Kentucky, Indiana, Ohio, Illinois, West Virginia, Virginia, Maryland, Delaware, New Jersey, Pennsylvania, New York, Rhode Island, Connecticut, Massachusetts, District of Columbia, Michigan, Minnesota, Missouri, Wisconsin, Arkansas, Alabama, Louisiana, Mississippi, Texas, Maine, Montana, Nevada, New Hampshire, North Dakota, South Dakota, Wyoming, Oregon, Vermont, Washington, Iowa, Arizona, California, Colorado, Idaho, Kansas, New Mexico, Oklahoma, and Nebraska. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–10949. Authority sought for purchase by GUIGNARD FREIGHT LINES, INC., North Highway 21, Post Office Box 26067, Charlotte, N.C. 28213, of a portion of the operating rights of PARRISH DRAY LINE, INC., 285 South Stratford Road, Winston-Salem, N.C. 27103, and for acquisition by LEWIS B. GUIGNARD, 7208 Marley Circle, Charlotte, N.C. 28214, of control of such rights through the purchase. Applicants' attorney: Edward G. Villalon, 1735 K Street NW., Washington, D.C. 20006. Operating rights sought to be transferred: *General commodities,* except those of unusual value, and except dangerous explosives, household goods (when transported as a separate and distinct service in connection with so-called "household movings"), 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 Sumter County, S.C., on the one hand, and, on the other, Savannah, Ga.; *general commodities, household goods, new furniture,* except commodities of unusual value, and except high explosives, intoxicating liquors, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between Sumter, S.C., on the one hand, and points in Alabama, on the other; and *new furniture and furniture veneer stock,* from Sumter, S.C., to points in Florida. Vendee is authorized to operate as a *common carrier* in North Carolina, Virginia, Maryland, Ohio, Pennsylvania, New York, Illinois, South Carolina, Kentucky, West Virginia, Alabama, Florida, Georgia, Tennessee, Indiana, New Jersey, Delaware, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC–F–10950. Authority sought for purchase by ALL–AMERICAN TRANSPORT, INC., 1500 Industrial Avenue, Sioux Falls, S. Dak. 57101, of the operating rights and property of ORVILLE GRAGG, doing business as GRAGG TRUCK LINE, Valley Falls, Kans. 66088, and for acquisition by BUFFALO EXPRESS, INC., and in turn by H. LAUREN LEWIS, both also of Sioux Falls, S. Dak., of control of such rights and property through the purchase. Applicant's attorneys: Axelrod, Goodman and Steiner, 39 South La Salle Street, Chicago, Ill. 60603, and John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603. 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 Ozawkie, Kans., on the one hand, and, on the other, Oskaloosa, Kans., between Kansas City, Mo., and Valley Falls, Kans., and certain intermediate points in Kansas, and the off-route points of North Kansas City, Mo., those within 15 miles of Oskaloosa, Kans., and those within 15 miles of Nortonville, Kans.; between Winchester, Kans., and Kansas City, Mo., and the intermediate point of Easton, Kans., without restriction, and the intermediate and off-route points of Kansas City, Kans., and points within 15 miles of Winchester, except Easton, restricted to livestock only, between Winchester, Kans., and St. Joseph, Mo., and the intermediate and off-route points within 15 miles of Winchester, with service at the intermediate and off-route points restricted to livestock only, between Valley Falls, Kans., and Holton, Kans., serving no intermediate points; *general commodities,* except those of unusual value, and except explosives, fuel oils, and commodities in bulk, between Valley Falls, Kans., and Kansas City, Mo., and certain intermediate and off-route points in Kansas, without restriction; Kansas City, Kans., points in Jefferson County, Kans., within 10 miles of Valley Falls, and those in the Kansas City, Mo.-Kans., commercial zone, as defined by the Commission, restricted to the transportation of livestock;

General commodities, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk (other than coal), commodities requiring special equipment, and those injurious or contaminating to other lading, from Kansas City, Mo., to Winchester, Kans., and to and from the intermediate and off-route points of Kansas City, Kans., and those within 12 miles of Winchester, Kans.; *livestock and seeds,* from Oskaloosa, Kans., and St. Joseph, Mo., and intermediate and off-route points within 15 miles of Oskaloosa; *livestock and agricultural commodities,* from Winchester, Kans., to St. Joseph, Mo., and to and from intermediate and off-route points within 12 miles of Winchester; from Winchester, Kans., to Kansas City, Mo., and to and from the intermediate and off-route points of Kansas City, Kans., and those within 12 miles of Winchester, Kans.; *livestock, grain, and feed,* from St. Joseph, Mo., to Winchester, Kans., and to and from intermediate and off-route points within 12 miles of Winchester; *general commodities,* with exception, over irregular routes, between points within 12 miles of Winchester, Kans., including Winchester; *household goods* as defined by the Commission, between Winchester and Easton, Kans., on the one hand, and, on the other, Kansas City, Kans., and Kansas City, Mo.; and *livestock, agricultural commodities, feed, farm machinery and parts, twine, roofing materials, and household goods,* as defined by the Commission, between Winchester, Kans., and points within 12 miles of Winchester, on the one hand, and, on the other, Kansas City, Kans., and Kansas City and St. Joseph, Mo. Vendee is authorized to operate as a *common carrier* in Minnesota, South Dakota, Nebraska, Iowa, Illinois, North Dakota, Wisconsin, Ohio, Indiana, Michigan, Missouri, and Kentucky. Application has been filed for temporary authority under section 210a(b).

No. MC–F–10952. Authority sought to be purchased by CUMMINGS TRUCKING COMPANY, INC., 1321 Seventh Street, Birmingham, Ala. 35401, of the operating rights and property of O. M. CUMMINGS, JR., doing business as TUSCALOOSA MOTOR EXPRESS, 228 Highlands, Tuscaloosa, Ala. 35401, and for acquisition by ELIZABETH B. CUMMINGS, and O. M. CUMMINGS, JR., both of Tuscaloosa, Ala., of control of such rights and property through the purchase. Applicants' attorney: John P. Carlton, 327 Frank Nelson Building, Birmingham, Ala. 35203. Operating rights sought to be transferred: *General commodities,* excepting among others, household goods and commodities in bulk, as a *common carrier* over regular routes, between Birmingham, Ala., and Tuscaloosa, Ala., between Jasper, Ala., and Birmingham, Ala.; *household goods,* as a *common carrier* over irregular routes, between Tuscaloosa, Ala., and points and places in Alabama within 65 miles of Tuscaloosa (not including Birmingham, Ala., and points within 10 miles of Birmingham), on the one hand, and, on the other, points and places in Alabama, Mississippi, Tennessee, Georgia, Florida, North Carolina, and South Carolina; *road machinery, tractors, graders, boilers, hoisting*

engines, and construction equipment, between Tuscaloosa, Ala., and points and places in Alabama within 65 miles of Tuscaloosa (not including Birmingham, Ala., and points within 10 miles of Birmingham), on the one hand, and, on the other, points and places in Alabama, Mississippi, Tennessee, Georgia, and Florida; *commodities requiring special equipment and handling because of size or weight*, between Tuscaloosa, Ala., on the one hand, and, on the other, points and places within 6 miles of Tuscaloosa. (This Application Is Filed Pursuant to Order in MC 97648 Sub-2, Embracing MC-FC-69107). NOTE: MC 134925, is a matter concurrently filed.

No. MC-F-10953. Authority sought for purchase by MILTON TRUCKING, INC., Rural Delivery 2, Milton, Pa. 17847, of the operating rights of F & F SERVICE CORP., Weest Milton, Pa. 17847, and for acquisition by RAY B. BOWERSOX, Rural Delivery 1, Milton, Pa., of control of such rights through the purchase. Applicants' attorney: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Operating rights sought to be transferred: *Pulpboard*, as a *contract carrier* over irregular routes, from the plantsite of National Gypsum Co., near New Columbia, Pa., to Portsmouth, N.H., and points in Ohio, West Virginia, Virginia, Maryland, New York, New Jersey, Delaware, Connecticut, Massachusetts, and the District of Columbia; *scrap paper and materials and supplies* used in the manufacture and distribution of pulpboard, from points in the above-named destination States and the District of Columbia, to the plantsite of National Gypsum Co., near New Columbia, Pa., with restriction. Vendee holds no authority from this Commission. However, it is affiliated with MILTON TRANSPORTATION, INC., Rural Delivery 1, Box 207, Milton, Pa. 17847, which is authorized to operate as a *contract carrier* in Pennsylvania, New York, New Jersey, Maryland, Delaware, Ohio, West Virginia, Virginia, District of Columbia, and Connecticut. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-10954. Authority sought for purchase by BEVERAGE TRANSPORT, INC., Post Office Box 88, East Bloomfield, N.Y. 14443, of the operating rights of METROPOLITAN FREIGHT CARRIERS, INC., 625 Grove Street, Elizabeth, N.J. 07202, and for acquisition by JAMES L. FITZGERALD, 25 Church Street, East Bloomfield, N.Y. 14443, of control of such rights through the purchase. Applicants attorney and representative: Raymond A. Richards, 23 West Main Street, Webster, N.Y. 14580 and James J. Farrell, 206 North Boulevard, Belmar, N.J. 07719. Operating rights sought to be transferred: *General commodities*, except classes A and B explosives, commodities in bulk, articles of unusual value, commodities requiring the use of special equipment, and household goods, as a *common carrier* over irregular routes, between New York, N.Y., on the one hand, and, on the other, Newark and Harrison, N.J., and points within 3 miles of Harrison. Vendee is authorized to operate as a *common carrier* in New York, New Jersey, and Ohio. Application has not been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] ROBERT L. OSWALD,
Acting Secretary.

[F.R. Doc. 70-12682; Filed, Sept. 22, 1970; 8:52 a.m.]

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