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HIGHLIGHTS OF THIS ISSUE

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

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FEDERAL REGISTER

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List of CFR Parts Affected

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

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1971, and specifies how they are affected.

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Department of Justice

Section 213.3310 is amended to show that one position of Special Assistant to the Assistant Attorney General, Internal Security Division, is no longer excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (7–31–71), subparagraph (5) of paragraph (p) of § 213.3310 is amended as set out below.

§ 213.3310 **Department of Justice.**

* * * * *

(p) *Internal Security Division.* * * *

(5) Two Special Assistants to the Assistant Attorney General.

* * * * *

(5 U.S.C. secs. 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.

[FR Doc.71–11011 Filed 7–30–71;8:53 am]

PART 213—EXCEPTED SERVICE

Department of the Interior

Section 213.3312 is amended to show that the position of Confidential Assistant (interdepartmental activities) to the Secretary is no longer excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (7–31–71), subparagraph (24) of paragraph (a) of § 213.3312 is revoked.

(5 U.S.C. secs. 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.

[FR Doc.71–11010 Filed 7–30–71;8:53 am]

PART 213—EXCEPTED SERVICE

Environmental Protection Agency

Section 213.3318 is amended to show that the following two positions are excepted under Schedule C: One Assistant to the Deputy Administrator and one Confidential Assistant to the Deputy Administrator.

Effective on publication in the FEDERAL REGISTER (7–31–71), paragraphs (u) and (v) are added to § 213.3318 as set out below.

§ 213.3318 **Environmental Protection Agency.**

* * * * *

(u) One Assistant to the Deputy Administrator.

(v) One Confidential Assistant to the Deputy Administrator.

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

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

[FR Doc.71–11008 Filed 7–30–71;8:53 am]

PART 213—EXCEPTED SERVICE

Department of Housing and Urban Development

Section 213.3384 is amended to show that one additional position of Special Assistant to the Assistant Secretary for Housing Management is excepted under Schedule C. This section is further amended to reflect the following title changes: From Staff Assistant to the Director, Office of Housing Management, to Staff Assistant to the Assistant Secretary for Housing Management, and from Special Assistant to the Director, Office of Housing Management, to Special Assistant to the Assistant Secretary for Housing Management. The section is also amended to show that the position of Special Assistant to the Director, Office of Renewal Assistance, is no longer excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (7–31–71), subparagraphs (4) and (5) are amended and subparagraphs (7) and (9) are revoked under paragraph (c) of § 213.3384 as set out below.

§ 213.3384 **Department of Housing and Urban Development.**

* * * * *

(c) *Office of the Assistant Secretary for Housing Management.* * * *

(4) Four Special Assistants to the Assistant Secretary.

(5) One Staff Assistant to the Assistant Secretary.

* * * * *

(7) [Revoked]

* * * * *

(9) [Revoked]

(5 U.S.C. secs. 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.

[FR Doc.71–11009 Filed 7–30–71;8:53 am]

PART 213—EXCEPTED SERVICE

President's Council on Youth Opportunity

Section 213.3385 is revoked to show that, with the discontinuance of the President's Council on Youth Opportunity, the position of the Council's Executive Director is no longer excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (7–31–71), § 213.3385 is revoked.

(5 U.S.C. secs. 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.

[FR Doc.71–11012 Filed 7–30–71;8:53 am]

PART 213—EXCEPTED SERVICE

Department of Agriculture

Section 213.3313 is amended to show that one additional position of Confidential Assistant to the Administrator, Consumer and Marketing Services, is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (7–31–71), subparagraph (3) of paragraph (m) of § 213.3313 is amended as set out below.

§ 213.3313 **Department of Agriculture.**

* * * * *

(m) *Consumer and Marketing Service.* * * *

(3) Three Confidential Assistants to the Administrator.

(5 U.S.C. secs. 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.

[FR Doc.71–11092 Filed 7–30–71;9:13 am]

Title 7—AGRICULTURE

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

[Lemon Reg. 491]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.791 **Lemon Regulation 491.**

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and

Order No. 910, as amended (7 CFR Part 910; 36 F.R. 9061), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on July 17, 1971.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period August 1 through August 7, 1971, is hereby fixed at 200,000 cartons.

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

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

Dated: July 29, 1971.

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

[FR Doc.71–11121 Filed 7–30–71;11:23 am]

PART 918—FRESH PEACHES GROWN IN GEORGIA

Expenses and Rate of Assessment for 1971–72 Fiscal Period

On July 13, 1971, notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 13035) regarding proposed expenses and the related rate of assessment for the period March 1, 1971, through February 29, 1972, pursuant to the marketing agreement and Order No. 918 (7 CFR Part 918) regulating the handling of fresh peaches grown in Georgia. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). After consideration of all relevant matters presented, including the proposals set forth in such notice which were submitted by the Industry Committee (established pursuant to said marketing agreement and order), it is hereby found and determined that:

§ 918.210 Expenses and rate of assessment.

(a) *Expenses.* Expenses that are reasonable and necessary to be incurred by the Industry Committee during the period March 1, 1971, through February 29, 1972, will amount to $14,512.

(b) *Rate of assessment.* The rate of assessment for said period, payable by each handler in accordance with § 918.41, is fixed at $0.01 per bushel basket of peaches (net weight of 48 pounds), or an equivalent of peaches in other containers or in bulk.

It is hereby 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 good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of fresh peaches have already begun; (2) the relevant provisions of said amended marketing agreement and this part require that the rate of assessment fixed for a particular fiscal period shall be applicable to all assessable peaches from the beginning of such period; and (3) the current fiscal period began March 1, 1971, and the rate of assessment herein fixed will automatically apply to all assessable peaches beginning with such date.

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

Dated: July 27, 1971.

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

[FR Doc.71–10947 Filed 7–30–71;8:47 am]

PART 923—SWEET CHERRIES GROWN IN DESIGNATED COUNTIES IN WASHINGTON

Expenses and Rate of Assessment

On July 8, 1971, notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 12864) regarding proposed expenses and the related rate of assessment for the period April 1, 1971, through March 31, 1972, and approval of carryover of unexpended funds from the fiscal period April 1, 1970, through March 31, 1971, pursuant to the marketing agreement and Order No. 923 (7 CFR Part 923) regulating the handling of sweet cherries grown in designated counties in Washington. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). After consideration of all relevant matters presented, including the proposals set forth in such notice which were submitted by the Washington Cherry Marketing Committee (established pursuant to said marketing agreement and order), it is hereby found and determined that:

§ 923.211 Expenses and rate of assessment.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Washington Cherry Marketing Committee during the period April 1, 1971, through March 31, 1972, will amount to $14,013.

(b) *Rate of assessment.* The rate of assessment for said period, payable by each handler in accordance with § 923.41, is fixed at $0.50 per ton of sweet cherries.

(c) *Reserve.* Unexpended assessment funds, in excess of expenses incurred during the fiscal period ended March 31, 1971, shall be carried over as a reserve in accordance with the applicable provisions of § 923.42 of said marketing agreement and order.

It is hereby further found that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of the current crop of sweet cherries grown in the designated counties in Washington are now being made; (2) the relevant provisions of said marketing agreement and this part require that the rate of assessment herein fixed shall be applicable to all assessable cherries handled during the aforesaid period; and (3) such period began on April 1, 1971, and said rate of assessment will automatically apply to all such cherries beginning with such date.

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

Dated: July 27, 1971.

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

[FR Doc.71–10948 Filed 7–30–71;8:47 am]

PART 924—FRESH PRUNES GROWN IN DESIGNATED COUNTIES IN WASHINGTON AND IN UMATILLA COUNTY, OREG.

Expenses and Rate of Assessment

On July 8, 1971, notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 12864) regarding proposed expenses and the related rate of assessment for the period April 1, 1971, through March 31, 1972, pursuant to the marketing agreement,

and Order No. 924 (7 CFR Part 924), regulating the handling of fresh prunes grown in designated counties in Washington and in Umatilla County, Oreg. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). After consideration of all relevant matters presented, including the proposals set forth in such notice which were submitted by the Washington-Oregon Fresh Prune Marketing Committee (established pursuant to said marketing agreement and order), it is hereby found and determined that:

§ 924.211 Expenses and rate of assessment.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Washington-Oregon Fresh Prune Marketing Committee during the period April 1, 1971, through March 31, 1972, will amount to $15,054.

(b) *Rate of assessment.* The rate of assessment for said period, payable by each handler in accordance with § 924.41, is fixed at $0.50 per ton of fresh prunes.

It is hereby further found that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of the current crop of fresh prunes grown in the designated production area are now being made; (2) the relevant provisions of said marketing agreement and this part require that the rate of assessment herein fixed shall be applicable to all assessable prunes handled during the aforesaid period; and (3) such period began on April 1, 1971, and said rate of assessment will automatically apply to all such prunes beginning with such date.

Dated: July 27, 1971.

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

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

[FR Doc.71-10949 Filed 7-30-71;8:47 am]

PART 965—TOMATOES GROWN IN THE LOWER RIO GRANDE VALLEY IN TEXAS

Expenses and Rate of Assessment

Marketing Order No. 965 (7 CFR Part 965) regulates the handling of tomatoes grown in the counties of Cameron, Hidalgo, Starr, and Willacy in South Texas. The said order is effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

Findings. (a) Based upon the recommendation and information submitted by the Texas Valley Tomato Committee, established pursuant to said marketing order and after consideration of all relevant matters, it is hereby found that the budget of expenses as hereinafter set forth will tend to effectuate the declared policy of the act.

(b) It is hereby found that it is impractical and contrary to the public interest to give preliminary notice, or engage in public rule making procedure, and that good cause exists for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) no assessment is being charged; all budget items are being paid from funds in the operating reserve fund and (2) compliance with this section will not require any special preparation on the part of handlers.

§ 965.212 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred by the Texas Valley Tomato Committee, established pursuant to Marketing Order No. 965, for its maintenance and functioning, and for such other purposes as the Secretary determines to be appropriate, during the fiscal period ending July 31, 1971, will amount to $283.91.

(b) There shall be no assessments charged during said fiscal period.

(c) The terms used in this section shall have the same meaning as when used in Marketing Order No. 965 (this Part 965).

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

Dated: July 28, 1971.

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

[FR Doc.71-10997 Filed 7-30-71;8:52 am]

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

[Milk Order 65]

PART 1065—MILK IN THE NEBRASKA-WESTERN IOWA MARKETING AREA

Order Suspending Certain Provisions

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

Notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 13272) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon. None were filed in opposition.

After consideration of all relevant material, including the proposal set forth in the aforesaid notice, data, views, and arguments filed thereon, and other available information, it is hereby found and determined that for the months of July and August 1971 the following provisions of the order do not tend to effectuate the declared policy of the Act:

1. In § 1065.14(c)(1), "for at least 3 days during the month. The aggregate quantity of producer milk so diverted for the month, however, shall not exceed 15 percent of the cooperative handler's total member-producer milk receipts at all pool plants during the month;"; and

2. In § 1065.14(c)(2), "for at least 3 days during the month. The aggregate quantity of producer milk so diverted for the month, however, shall not exceed 15 percent of the milk of all such producers received at his pool plant(s) exclusive of that milk received from producer-members of a cooperative association;".

STATEMENT OF CONSIDERATION

These provisions pertain to limitations on the volume of producer milk which may be diverted. This suspension order permits unlimited diversions of producer milk to nonpool plants during July and August 1971.

Mid-America Dairymen, Inc., requested the suspension action for July and August 1971. This cooperative is primarily responsible for handling the reserve supplies of milk for the market. Because of increased production of producer milk, the cooperative otherwise would not be able to pool the milk of all its producers who regularly supply the market. The cooperative association has stated its intention to petition for an early hearing on proposals to revise the diversion provisions in the order.

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

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area in that it is the only practical means of rendering the provisions inoperative for the period designated.

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

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension.

Therefore, good cause exists for making this order effective for the months of July and August 1971.

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended for the months of July and August 1971.

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

Signed at Washington, D.C., on July 28, 1971.

RICHARD E. LYNG,
Assistant Secretary.

[FR Doc.71-10998 Filed 7-30-71;8:52 am]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Grain Price Support Regs., 1971 Crop Barley Supp., Amdt.]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1971 Crop Barley Loan and Purchase Program

BASIC SUPPORT RATES

The regulations issued by the Commodity Credit Corporation published in 36 F.R. 8997, containing regulations for price support loans and purchases applicable to the 1971 crop of barley are amended as follows:

In § 1421.75, paragraph (a) is amended to adjust basic county support rates as follows:

§ 1421.75 Support rates and discounts.

(a) *Basic support rates (counties).*

* * *

SOUTH DAKOTA

County	Rate per bushel	
	From	To
Bon Homme	$0.75	$0.78
Brookings	.80	.81
Charles Mix	.74	.76
Clay	.76	.79
Codington	.78	.79
Deuel	.81	.82
Douglas	.74	.75
Grant	.79	.80
Gregory	.74	.75
Hutchinson	.75	.76
Lake	.76	.77
Lincoln	.76	.77
Minnehaha	.76	.77
Moody	.79	.80
Roberts	.78	.79
Turner	.75	.76
Union	.75	.80
Yankton	.75	.78

* * * * *

(Sec. 4, 62 Stat. 1070 as amended; 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 105, 401, 63 Stat. 1051 as amended; 15 U.S.C. 714c, 7 U.S.C. 1421, 1441)

Effective date: Upon publication in the FEDERAL REGISTER (7-31-71).

Signed at Washington, D.C., on July 27, 1971.

CARROLL G. BRUNTHAVER,
Acting Executive Vice President,
Commodity Credit Corporation.

[FR Doc.71-10954 Filed 7-30-71;8:48 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

[Docket No. 71-586]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

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

In § 76.2, the introductory portion of paragraph (e) is amended by adding thereto the name of the State of Rhode Island; paragraph (f) is amended by deleting the name of the State of Rhode Island; and a new paragraph (e)(6) relating to the State of Rhode Island is added to read:

(6) *Rhode Island.* That portion of Providence County comprised of Cumberland town.

2. In § 76.2, paragraph (f) is amended by adding the name of the State of Ohio.

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

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

The amendments quarantine a portion of Providence County, R.I., because of the existence of hog cholera. This action is deemed necessary to prevent further spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the quarantined portion of such county.

The amendments delete Rhode Island from the list of hog cholera eradication States in § 76.2(f), and the special provisions pertaining to the interstate movement of swine and swine products from or to such eradication States are no longer applicable to Rhode Island.

The amendments also add Ohio to the list of hog cholera eradication States in § 76.2(f), and the special provisions pertaining to the interstate movement of swine and swine products from or to such eradication States are applicable to Ohio.

Insofar as the amendments impose certain further restrictions necessary to prevent the interstate spread of hog cholera, they must be made effective immediately to accomplish their purpose in the public interest. Insofar as they relieve restrictions, they should be made effective promptly in order to be of maximum benefit to affected persons. It does not appear that public participation in this rule making proceeding would make additional relevant information available to this Department.

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

Done at Washington, D.C., this 27th day of July 1971.

F. J. MULHERN,
Acting Administrator,
Agricultural Research Service.

[FR Doc.71-10996 Filed 7-30-71;8:52 am]

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

PART 224—FEDERAL RESERVE BANK INTEREST RATES

Changes in Rates

Pursuant to section 14(d) of the Federal Reserve Act (12 U.S.C. 357), and for the purpose of adjusting discount rates with a view to accommodating commerce and business in accordance with

other related rates and the general credit situation of the country, Part 224 is amended as set forth below:

1. Section 224.2 is amended to read as follows:

§ 224.2 Advances and discounts for member banks under sections 13 and 13a.

The rates for all advances and discounts under sections 13 and 13a of the Federal Reserve Act (except advances under the last paragraph of such section 13 to individuals, partnerships, or corporations other than member banks) are:

Federal Reserve Bank of—	Rate	Effective
Boston	7	July 19, 1971
New York	7	July 16, 1971
Philadelphia	7	Do.
Cleveland	7	July 23, 1971
Richmond	7	Do.
Atlanta	7	July 19, 1971
Chicago	7	July 23, 1971
St. Louis	7	July 16, 1971
Minneapolis	7	July 19, 1971
Kansas City	7	July 23, 1971
Dallas	7	Do.
San Francisco	7	July 16, 1971

2. Section 224.3 is amended to read as follows:

§ 224.3 Advances to member banks under section 10(b).

The rates for advances to member banks under section 10(b) of the Federal Reserve Act are:

Federal Reserve Bank of—	Rate	Effective
Boston	5½	July 19, 1971
New York	5½	July 16, 1971
Philadelphia	5½	Do.
Cleveland	5½	July 23, 1971
Richmond	5½	Do.
Atlanta	5½	July 19, 1971
Chicago	5½	July 23, 1971
St. Louis	5½	July 16, 1971
Minneapolis	5½	July 19, 1971
Kansas City	5½	July 23, 1971
Dallas	5½	Do.
San Francisco	5½	July 16, 1971

3. Section 224.4 is amended to read as follows:

§ 224.4 Advances to persons other than member banks.

The rates for advances under the last paragraph of section 13 of the Federal Reserve Act to individuals, partnerships, or corporations other than member banks secured by direct obligations of, or obligations fully guaranteed as to principal and interest by, the United States or any agency thereof are:

Federal Reserve Bank of—	Rate	Effective
Boston	5	July 19, 1971
New York	5	July 16, 1971
Philadelphia	5	Do.
Cleveland	5	July 23, 1971
Richmond	5	Do.
Atlanta	5	July 19, 1971
Chicago	5	July 23, 1971
St. Louis	5	July 16, 1971
Minneapolis	5	July 19, 1971
Kansas City	5	July 23, 1971
Dallas	5	Do.
San Francisco	5	July 16, 1971

For the reasons and good cause found as stated in § 224.7, there is no notice, public participation, or deferred effective date in connection with this action.

(12 U.S.C. 248(i). Interprets or applies 12 U.S.C. 357)

By order of the Board of Governors, July 23, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-10892 Filed 7-30-71;8:45 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 10299; Amdt. No. 39-1258]

PART 39—AIRWORTHINESS DIRECTIVES

Hawker Siddeley Model DH-104 "Dove" Airplanes

Amendment 39-1229 (36 F.R. 11186), AD 71-13-2 requires replacement of emergency landing gear extension system compressed air bottle assemblies having air bottles that were manufactured before January 1, 1959, with serviceable assemblies of the same part number incorporating air bottles manufactured on or after that date on Hawker Siddeley Model DH-104 "Dove" airplanes. Amendment 39-1229 requires that the replacement be accomplished on or before July 31, 1971. After issuing Amendment 39-1229, the FAA was advised by several operators that the parts are not available for compliance by July 31, 1971. The FAA's investigation of these reports discloses that the parts are available but that delays have resulted because of misunderstandings in parts ordering procedures, and that extending the date for compliance with the AD until August 31, 1971, to avoid unnecessary grounding of the airplanes will not adversely affect safety. Therefore, the AD is being amended to extend the compliance date to August 31, 1971.

Since this amendment grants relief by extending the date for compliance and imposes no additional burden on any person, I find that notice and public procedures hereon are not necessary, and this amendment may be made effective immediately.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-1229 (36 F.R. 11186), AD 71-13-2, is amended by amending the compliance statement to read as follows:

Compliance is required on or before August 31, 1971.

This amendment becomes effective August 5, 1971.

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

Issued in Washington, D.C., on July 27, 1971.

WILLIAM G. SHREVE, Jr.,
Acting Director,
Flight Standards Service.

[FR Doc.71-10933 Filed 7-30-71;8:46 am]

[Docket No. 10300; Amdt. 39-1259]

PART 39—AIRWORTHINESS DIRECTIVES

Hawker Siddeley Model DH-114 "Heron" Airplanes

Amendment 39-1230 (36 F.R. 11186), AD 71-13-3 requires replacement of emergency landing gear extension system compressed air bottle assemblies having air bottles that were manufactured before January 1, 1959, with serviceable assemblies of the same part number incorporating air bottles manufactured on or after that date on Hawker Siddeley Model DH-114 "Heron" airplanes. Amendment 39-1230 requires that the replacement be accomplished on or before July 31, 1971. After issuing Amendment 39-1230, the FAA was advised by several operators that the parts are not available for compliance by July 31, 1971. The FAA's investigation of these reports discloses that the parts are available but that delays have resulted because of misunderstandings in parts ordering procedures, and that extending the date for compliance with the AD until August 31, 1971, to avoid unnecessary grounding of the airplanes will not adversely affect safety. Therefore, the AD is being amended to extend the compliance date to August 31, 1971.

Since this amendment grants relief by extending the date for compliance and imposes no additional burden on any person, I find that notice and public procedures hereon are not necessary, and this amendment may be made effective immediately.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-1230 (36 F.R. 11186), AD 71-13-3, is amended by amending the compliance statement to read as follows:

Compliance is required on or before August 31, 1971.

This amendment becomes effective August 5, 1971.

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

Issued in Washington, D.C., on July 27, 1971.

WILLIAM G. SHREVE, Jr.,
Acting Director,
Flight Standards Service.

[FR Doc.71-10934 Filed 7-30-71;8:46 am]

[Airspace Docket No. 71-EA-31]

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

Designation of Transition Area

On page 9663 of the FEDERAL REGISTER for May 27, 1971, the Federal Aviation Administration published a proposed rule which would designate a Quakerstown, Pa., transition area.

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulation is hereby adopted, effective 0901 G.m.t. September 16, 1971, except to correct 40°25'20" N. to read 40°25'29" N.

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749; 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on July 13, 1971.

LOUIS J. CARDINALI,
Acting Director, Eastern Region.

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate the Quakertown, Pa. 700-foot floor transition area as follows:

QUAKERTOWN, PA.

That airspace extending upward from 700 feet above the surface within an 8-mile-radius area of the center of Upper Bucks County Airport, Quakertown, Pa., 40°26'15" N., 75°22'45" W., and within 3.5 miles each side of a line bearing 099° from the Quakertown, Pa. RBN (40°25'29" N., 75°17'52" W.) extending from the 8-mile-radius area to 11 miles east of the RBN.

[FR Doc.71-10935 Filed 7-30-71;8:46 am]

Title 21—FOOD AND DRUGS

Chapter III—Environmental Protection Agency

PART 420—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Formetanate Hydrochloride

Two petitions (PP 0F0961, 0F0989) were filed by Nor-Am Agricultural Products, Inc., 11710 Lake Avenue, Woodstock, IL 60098, in accordance with provisions of the Federal Food, Drug and Cosmetic Act as amended (21 U.S.C. 346a), proposing establishment of tolerances for residues of the insecticide formetanate hydrochloride (m-[[(dimethylamino)methylene]amino]phenyl methylcarbamate hydrochloride) in or the raw agricultural commodities lemons, limes, and oranges at 4 parts per million and in or on apples and pears at 3 parts per million.

Prior to December 2, 1970, the Secretary of Agriculture certified that the poses for which the proposed tolerances are being established, and the Fish and Wildlife Service of the Department of the Interior advised that it has no objections to these tolerances.

Part 120, Chapter I, Title 21, was redesignated Part 420 and transferred to Chapter III (36 F.R. 424).

Based on consideration given the data submitted in the petitions and other relevant material, it is concluded that:

1. The proposed uses are not reasonably expected to result in residues in eggs, meat, milk and poultry as specified in § 420.6(a)(3).

2. 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)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs of the Environmental Protection Agency (36 F.R. 9038), Part 420 is amended by establishing a new section as follows:

§ 420.276 **Formetanate hydrochloride; tolerances for residues.**

Tolerances are established for residues of the insecticide formetanate hydrochloride (m-[[(dimethylamino)methylene]amino]phenyl methylcarbamate hydrochloride) in or on raw agricultural commodities as follows:

4 parts per million in or on lemons, limes, and oranges.

3 parts per million in or on apples and pears.

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 Objections Clerk, Environmental Protection Agency, 1626 K Street NW., Washington, DC 20460, 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 (7-31-71).

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

Dated: July 27, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.71-10986 Filed 7-30-71;8:51 am]

Title 24—HOUSING AND HOUSING CREDIT

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

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

List of Designated Areas

Section 1914.4 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1914.4 **List of designated areas.**

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
* * *	* * *	* * *	* * *	* * *	* * *	* * *
Alabama	Mobile	Bayou La Batre				July 30, 1971.
California	Marin	Larkspur	I 06 041 1850 02	Department of Water Resources, Post Office Box 388, Sacramento, CA 95802. California Insurance Department, 107 South Broadway, Los Angeles, CA 90012, and 1407 Market St., San Francisco, CA 94103.	Larkspur City Hall, 400 Magnolia Ave., Larkspur, CA 94939.	Do.
Do	do	San Rafael	I 06 041 3410 15 through I 06 041 3410 28	do	Public Works Office, Room 301, City Hall, 1400 Fifth Ave., San Rafael, CA 94902.	Do.
Florida	Manatee	Longboat Key	I 12 081 1835 02 through I 12 081 1835 04	Department of Community Affairs, 309 Office Plaza, Tallahassee, Fla. 32301. State of Florida Insurance Department, Treasurer's Office, The Capitol, Tallahassee, Fla. 32304.	Municipal Office, 5144 Gulf of Mexico Dr., Longboat Key, FL 33548.	Do.
Do	Sarasota	Unincorporated areas.	I 12 115 0000 02 through I 12 115 0000 30	do	Office of the Clerk to the County Commission, Sarasota County Courthouse, Room 21, Sarasota, Fla. 33578.	Do.
Do	do	Sarasota	I 12 115 2780 05 through I 12 115 2780 08	do	Office of the City Clerk and Auditor, 1565 First St., Sarasota, FL 33578.	Do.
Do	do	Venice	I 12 115 3050 02 through I 12 115 3050 05	do	Office of the City Clerk, City Hall, 401 West Venice Ave., Venice, FL 33595.	Do.
Do	Santa Rosa	Milton				Do.
New Jersey	Monmouth	Monmouth Beach Borough.				Do.
New York	Suffolk	Southampton				Do.
Pennsylvania	Snyder	Selinsgrove				Do.
Rhode Island	Newport	Portsmouth				Do.
Tennessee	Marion	Jasper				Do.
Texas	Dallas	Mesquite	I 48 113 4530 03 through I 48 113 4530 07	Texas Water Development Board, Post Office Box 12386, Austin, TX 78701. Texas Insurance Department, 1110 San Jacinto St., Austin, TX 78701.	Mesquite Department of Public Works Mesquite Municipal Bldg., Municipal Way at Galloway, Box 137, Mesquite, TX 75149.	Do.

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

Issued: July 30, 1971.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.71-10874 Filed 7-30-71;8:45 am]

PART 1915—IDENTIFICATION OF FLOOD-PRONE AREAS

List of Flood Hazard Areas

Section 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 List of flood hazard areas.

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
* * *	* * *	* * *	* * *	* * *	* * *	* * *
Alabama	Mobile	Bayou La Batre				July 30, 1971.
California	Marin	Larkspur	H 06 041 1850 02	Department of Water Resources, Post Office Box 388, Sacramento, CA 95802. California Insurance Department, 107 South Broadway, Los Angeles, CA 90012, and 1407 Market St., San Francisco, CA 94103.	Larkspur City Hall, 400 Magnolia Ave., Larkspur, CA 94939.	Oct. 23, 1970.
Do	do	San Rafael	H 06 041 3410 15 through H 06 041 3410 28	do	Public Works Office, Room 301, City Hall, 1400 Fifth Ave., San Rafael, CA 94902.	Jan. 8, 1971.
Florida	Manatee	Longboat Key	H 12 081 1835 02 through H 12 081 1835 04	Department of Community Affairs, 309 Office Plaza, Tallahassee, Fla. 32301. State of Florida Insurance Department Treasurer's Office, The Capitol, Tallahassee, Fla. 32304.	Municipal Office, 5144 Gulf of Mexico Dr., Longboat Key, FL 33548.	Apr. 25, 1970.
Do	Sarasota	Unincorporated areas.	H 12 115 0000 02 through H 12 115 0000 30	do	Office of the Clerk to the County Commission, Sarasota County Courthouse, Room 21, Sarasota, Fla. 33578.	July 11, 1970.
Do	do	Sarasota	H 12 115 2780 05 through H 12 115 2780 08	do	Office of the City Clerk and Auditor, 1565 First St., Sarasota, FL 33578.	Sept. 18, 1970.
Do	do	Venice	H 12 115 3050 02 through H 12 115 3050 05	do	Office of the City Clerk, City Hall, 401 West Venice Ave., Venice, FL 33595.	Aug. 26, 1970.
Do	Santa Rosa	Milton				July 30, 1971.
New Jersey	Monmouth	Monmouth Beach Borough.				Do.
New York	Suffolk	Southampton				Do.
Pennsylvania	Snyder	Selinsgrove				Do.
Rhode Island	Newport	Portsmouth				Do.
Tennessee	Marion	Jasper				Do.
Texas	Dallas	Mesquite	H 48 113 4530 03 through H 48 113 4530 03	Texas Water Development Board, Post Office Box 12386, Austin, TX 78701. Texas Insurance Department, 1110 San Jacinto St., Austin, TX 78701.	Mesquite Department of Public Works, Mesquite Municipal Bldg., Municipal Way at Galloway, Box 137, Mesquite, TX 75149.	Aug. 7, 1970.

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

Issued: July 30, 1971.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.71-10875 Filed 7-30-71;8:45 am]

[Docket No. R-71-109]

PART 1930—DESCRIPTION OF PROGRAM AND OFFER TO AGENTS

PART 1931—PURCHASE OF INSURANCE AND ADJUSTMENT OF CLAIMS

List of Eligible States and Names of Servicing Companies

On July 1, 1971, the rules governing the Federal Crime Insurance Program (24 CFR Parts 1930–1934) were published in the FEDERAL REGISTER at 36 F.R. 12517, effective August 1, 1971. Section 1931.1 of those rules set forth in paragraph (b) the Administrator's tentative conclusion that 12 States had an unresolved critical market unavailability situation which would necessitate the implementation of the Federal crime insurance program within such States on August 1, 1971.

On the basis of subsequent State action, the Administrator has determined that California and Michigan now have adopted suitable programs to make the standard lines of crime insurance available within such States at affordable rates, and § 1931.1(b) is therefore revised to reflect their deletion from the list of States eligible for the sale of crime insurance on August 1.

In addition, agreements have now been entered into between the insurer and three insurance companies pursuant to formal Government contracting procedures authorizing such companies to act as servicing companies (as described in §§ 1930.1(a)(14) and 1930.5) for the 10 States in which the program will initially be operative, and § 1930.6 is added to indicate the names of these companies and the States they will serve.

1. Section 1930.6 is added to read as follows:

§ 1930.6 Names and addresses of servicing companies.

The following companies have been designated to act as servicing companies for the program in the States indicated for the period commencing August 1, 1971, and ending July 31, 1972:

Connecticut—Aetna Casualty & Surety Co., 111 Pearl Street, Hartford, CT 06103.

District of Columbia—Aetna Casualty & Surety Co., Commerce Building, 1700 K Street NW., Washington, DC 20006.

Illinois—Insurance Company of North America.

Chicago—167 West Jackson Boulevard, Chicago, IL 60604.

St. Louis—Suite 444, Carondelet East Building, 7710 Carondelet Avenue, Clayton, St. Louis, MO 63105.

Peoria—Suite 1600, Savings Building, 411 Hamilton Boulevard, Peoria, IL 61602.

Maryland—Insurance Company of North America.

Baltimore—303 East Fayette Street, Baltimore, MD 21202.

Washington Suburbs—2133 Wisconsin Avenue NW., Washington, DC 20007.

Massachusetts—Aetna Casualty & Surety Co., 10 Post Office Square, Boston, Mass. 02109.

Missouri—Aetna Casualty & Surety Co., 1600 Pierce Building, 112 West Fourth Street, St. Louis, MO 63102.

New York—Aetna Casualty & Surety Co., 151 William Street, New York, NY 10038.

Ohio—Aetna Casualty & Surety Co., Union Commerce Building, 925 Euclid Avenue, Cleveland, OH 44114.

Pennsylvania—Insurance Company of North America.
Harrisburg—1300 Plaza West, 1300 Market Street, Lemoyne, PA 17043.
Philadelphia—625 Walnut Street, Philadelphia, PA 19105.
Pittsburgh—I.N.A. Building, Parkway Center, 875 Greentree Road, Pittsburgh, PA 15220.
Suburban Philadelphia—131 West Wayne Avenue, Wayne, PA 19087.
Rhode Island—American Universal Insurance Co., 114 Wayland Avenue, Box 6328, Providence, RI 02904.

§ 1931.1 [Amended]

2. In paragraph (b) of § 1931.1, the list of States eligible for the sale of crime insurance is revised to read as follows:

Connecticut.	Missouri.
District of Columbia.	New York.
Illinois.	Ohio.
Maryland.	Pennsylvania.
Massachusetts.	Rhode Island.

(Sec. 1237, 82 Stat. 566; 12 U.S.C. 1749bbb–17)

Effective date. These regulations shall be effective August 1, 1971.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.71–10994 Filed 7–30–71;8:51 am]

Title 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior

SUBCHAPTER O—RIGHTS-OF-WAY—ROADS

PART 161—RIGHTS-OF-WAY OVER INDIAN LANDS

Consent of Landowners; Power Projects

JULY 27, 1971.

The authority to issue regulations is vested in the Secretary of the Interior by sections 161, 463, and 465 of the Revised Statutes (5 U.S.C. 301; 25 U.S.C. 2 and 9).

Beginning on page 8520 of the FEDERAL REGISTER of May 7, 1971 (36 F.R. 8520), there was published a notice of proposed rule making to revise §§ 161.3 and 161.27 of Part 161 to Title 25 of the Code of Federal Regulations relating to the consent of landowners to grants of rights-of-way and power projects.

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

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

The revised sections of Part 161 shall become effective 30 days from the date of their publication in the FEDERAL REGISTER.

LOUIS R. BRUCE,
Commissioner.

As revised, §§ 161.3 and 161.27 read as follows:

§ 161.3 Consent of landowners to grants of rights-of-way.

(a) No right-of-way shall be granted over and across any tribal land, nor shall any permission to survey be issued with respect to any such lands, without the prior written consent of the tribe.

(b) Except as provided in paragraph (c) of this section, no right-of-way shall be granted over and across any individually owned lands, nor shall any permission to survey be issued with respect to any such lands, without the prior written consent of the owner or owners of such lands and the approval of the Secretary.

(c) The Secretary may issue permission to survey with respect to, and he may grant rights-of-way over and across individually owned lands without the consent of the individual Indian owners when (1) the individual owner of the land or of an interest therein is a minor or a person non compos mentis, and the Secretary finds that such grant will cause no substantial injury to the land or the owner, which cannot be adequately compensated for by monetary damages; (2) the land is owned by more than one person, and the owners or owner of a majority of the interests therein consent to the grant; (3) the whereabouts of the owner of the land or an interest therein are unknown, and the owners or owner of any interests therein whose whereabouts are known, or a majority thereof, consent to the grant; (4) the heirs or devisees of a deceased owner of the land or an interest therein have not been determined, and the Secretary finds that the grant will cause no substantial injury to the land or any owner thereof; (5) the owners of interests in the land are so numerous that the Secretary finds it would be impracticable to obtain their consent, and also finds that the grant will cause no substantial injury to the land or any owner thereof.

§ 161.27 Power projects.

* * * * *

(b) All applications, other than those made by power-marketing agencies of the Department of the Interior, for authority to survey, locate, or commence construction work on any project for the generation of electric power, or the transmission or distribution of electrical power of 66 kv. or higher involving lands other than tribal lands dealt with in the exception contained in § 161.2(c) shall be referred to the Office of the Assistant Secretary of the Interior for Water and Power Resources or such other agency as may be designated for the area involved, for consideration of the relationship of the proposed project to the power development program of the United States. Where the proposed project will not conflict with the program of the United States, the Secretary, upon notification to that effect, may then proceed to act upon the application. In the case of necessary changes respecting the proposed location, construction, or utilization of the project in order to eliminate conflicts with the power development program of the United States, the Secretary shall obtain from the applicant written consent to or compliance with such requirements before taking further action on the application.

[FR Doc.71–10930 Filed 7–30–71;8:45 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 7135]

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

Extension of Time for Filing Elections To Amortize Certain Pollution Control Facilities

In order to extend the time for filing certain elections under section 169 of the Internal Revenue Code of 1954, paragraph (a) (2) and (3) of § 1.169–4 of the Income Tax Regulations (26 CFR Part 1) are hereby amended to read as follows:

§ 1.169–4 Time and manner of making elections.

* * * * *

(a) *Election of amortization.* * * *

(2) *Special rule.* If the return for the taxable year in which falls the first month of the 60-month amortization period to be elected is filed before November 16, 1971, without making the election for such year, then on or before December 31, 1971 (or if there is no State certifying authority in existence on November 16, 1971, on or before the 90th day after such authority is established), the election may be made by a statement attached to an amended income tax return for the taxable year in which falls the first month of the 60-month amortization period so elected. Amended income tax returns or claims for credit or refund must also be filed at this time for other taxable years which are within the amortization period and which are subsequent to the taxable year for which the election is made. Nothing in this paragraph should be construed as extending the time specified in section 6511 within which a claim for credit or refund may be filed.

(3) *Other requirements and considerations.* No method of making the election provided for in section 169(a) other than that prescribed in this section shall be permitted on or after May 18, 1971. A taxpayer which does not elect in the manner prescribed in this section to take amortization deductions with respect to a certified pollution control facility shall not be entitled to such deductions. In the case of a taxpayer which elects prior to May 18, 1971, the statement required by subparagraph (1) of this paragraph

shall be attached to its income tax return for either its taxable year in which December 31, 1971, occurs or its taxable year preceding such year.

* * * * *

Because this Treasury decision amends existing regulations merely by postponing the last day for making certain elections, it is hereby found unnecessary and impracticable to issue this Treasury decision with notice and public procedure thereon under 5 U.S.C. section 553 (b), or subject to the effective date limitation of 5 U.S.C. section 553(d).

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

[SEAL] HAROLD T. SWARTZ,
Acting Commissioner of Internal Revenue.

Approved: July 27, 1971.

EDWIN S. COHEN,
Assistant Secretary of the Treasury.

[FR Doc.71-10979 Filed 7-30-71;8:50 am]

Title 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

SUBCHAPTER E—DEFENSE CONTRACTING

PART 169—COMMERCIAL OR INDUSTRIAL ACTIVITIES

The Deputy Secretary of Defense approved the following revision to Part 169 on July 8, 1971:

Sec.
169.1 Purpose and applicability.
169.2 Definitions.
169.3 Policy.
169.4 Responsibilities and delegations.
169.5 Objective.

AUTHORITY: The provisions of this Part 169 issued under Title 5 U.S.C. 301, and Title 5 U.S.C. 552.

§ 169.1 Purpose and applicability.

This part implements OMB Circular A-76 and prescribes Department of Defense policy governing the establishment and operation of DoD commercial or industrial activities by DoD components.

§ 169.2 Definitions.

(a) *DoD commercial or industrial activities.* Activities operated and managed by DoD components to provide products or services for Government use which are obtainable from private commercial sources.

(b) *Private commercial sources.* Private business concerns which provide products or services available to Government Agencies, and which are located in the United States, its territories and possessions, the District of Columbia, or the Commonwealth of Puerto Rico.

(c) *New start.* (1) The term "new start" includes the following:

(i) A newly established DoD commercial or industrial activity involving additional capital investment of $25,000 or more, or additional annual costs of production of $50,000 or more.

(ii) A reactivation, expansion, modernization, or replacement of an activity involving additional capital investment of $50,000 or more or additional costs of production of $100,000 or more.

(iii) Construction, replacement, or reactivation of bakery, laundry and dry cleaning facilities and scrap metal facilities subject to provisions of DoD Directives 5126.8 and 5126.15.[1]

(2) Exemptions: Consolidation of two or more activities without increasing the overall total amount of products or services provided is not a "new start."

(d) *Contract support services.* Services procured from private commercial sources in support of DoD functions.

§ 169.3 Policy.

(a) Office of Management and Budget Circular No. A-76 outlines the principle that: (1) Government Departments and Agencies will rely on the private enterprise system for the provision of required products or services to the maximum extent consistent with effective and efficient accomplishment of their programs; and (2) in some circumstances, it is in the national interest for the Government to provide directly the products and services it uses, and that only under those circumstances will a Department or Agency continue the operation of a Government commercial or industrial activity, or initiate a "new start."

(b) In conformance with this principle, the Department of Defense will depend upon both private and Government commercial or industrial sources for the provision of products and services, with the objective of meeting its military readiness requirements with maximum cost effectiveness as follows:

(1) DoD commercial or industrial activities may be continued in operation or initiated as "new starts" only when a clear determination is made that one or more of the following circumstances exist:

(i) Procurement of a product or service from a commercial source would disrupt or materially delay an agency's program.

(ii) It is necessary for the Government to conduct a commercial or industrial activity for purposes of combat support or for individual and unit retraining of military personnel or to maintain or strengthen mobilization readiness.

(iii) A satisfactory commercial source is not available and cannot be developed in time to provide a product or service when it is needed.

(iv) The product or service is not available from another Federal Agency nor from commercial sources.

(v) Procurement of the product or service from a commercial source will result in higher total cost to the Government.

(2) Within the limitations prescribed in subparagraph (1) of this paragraph, DoD components will be equipped and staffed to carry out effectively and economically those commercial or industrial activities which must be performed internally in order to meet military readiness requirements. All other required products or services will be obtained in the manner least costly to the Government (by contract, by procurement from other Government Agencies, or from DoD commercial or industrial activities). Decisions based upon cost considerations shall be supported by cost comparison studies conducted in accordance with the guidelines in OMB Circular No. A-76 and 32 CFR 169a, and in conformance with the policies specified in DoD Directives 4151.1, 4275.5, and 4000.19.[1]

(3) Although DoD components will rely primarily upon private commercial sources for required products and services, this policy will not be used as authority for methods of contract personnel procurement not authorized by law, nor as a means of avoiding Government personnel or salary limitations.

(4) DoD components will continue to perform for themselves those basic functions of management necessary to retain essential control over the conduct of their programs.

(i) These include selection, training and direction of Government personnel, assignment of organizational responsibilities, planning of programs, establishment of performance goals and priorities, and evaluation of performance.

(ii) Where required, commercial contract sources may be used to provide managerial, advisory and other support services related to these internal functions: *Provided,* That the Government's fundamental responsibility for controlling and managing its programs is not comprised or weakened.

§ 169.4 Responsibilities and Delegations.

(a) The Assistant Secretary of Defense (Installations and Logistics) will:

(1) Formulate and develop policy for the DoD program.

(2) Provide the instructions necessary to implement the requirements of this part (see Part 169a of this subchapter).

(3) Maintain an inventory of DoD commercial or industrial activities and contract support service functions.

(4) Monitor the use of the program's guidelines. Examine the results to ensure timely and consistent reviews and inventory by DoD components (see OMB Circular No. A-76).[2]

(5) Conduct, in collaboration with the Assistant Secretaries of Defense (Comptroller) and (Manpower and Reserve Affairs), a continuing program for improving management and cost effectiveness in performance of DoD commercial or industrial activities and contract support service functions.

(6) Exempt selected DoD commercial or industrial activities from review, as provided in section 7c(1) of OMB Circular No. A-76.

[1] Filed as part of the original. Copies available from Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120, Code 300.

[2] OMB Circular A-76 filed as part of the original document.

(7) Establish the use of automatic data processing (ADP) for surveillance and managerial control.

(b) DoD components: The Secretaries of the Military Departments and the Directors of Defense Agencies:

(1) Will carry out the requirements of this part in accordance with the instructions issued by the Assistant Secretary of Defense (I&L) (see Part 169a of this subchapter).

(2) Are authorized to act for the Secretary of Defense to approve or disapprove "new starts," subject to the criteria of this part (§ 169.3), with authority to redelegate this authority but not below the level of an Assistant Secretary or an official of equivalent rank. This approval authority does not include industrial facility modernization and expansion projects which require ASD (I&L) approval in accordance with DoD Directive 4275.5.[1]

(3) Are authorized to act for the Secretary of Defense in making decisions to continue, discontinue, or curtail commercial or industrial activities operated by their respective Departments or Agencies. Within the Military Departments, this authority may be redelegated but not below the level of the Commanding Officer of a major command.

(4) Will insure that high standards of objectivity and consistency are maintained in the reviews and inventory.

(5) Will maintain the technical competency necessary to assure effective and efficient management of the total program.

§ 169.5 Objective.

(a) It is intended that a continued implementation of this policy will:

(1) Result in the maximum practicable reduction in DoD commercial or industrial activities, consistent with § 169.3(b)(1).

(2) Provide economies in DoD procurement of products and services.

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

[FR Doc.71-10943 Filed 7-30-71;8:47 am]

SUBCHAPTER P—RECORDS

PART 287—AVAILABILITY TO THE PUBLIC OF DEFENSE COMMUNICATIONS AGENCY INFORMATION

Part 287 is revised as follows:

Sec.
287.1 Purpose.
287.2 Applicability.
287.3 Authority.
287.4 Responsibilities.
287.5 Exemptions.
287.6 "For Official Use Only" Records.

AUTHORITY: The provisions of this Part 287 issued pursuant to secs. 301 and 552 of title 5 of the United States Code.

§ 287.1 Purpose.

This part delineates responsibility for making available the maximum amount of information to the public concerning the operations and activities of the DCA.

§ 287.2 Applicability.

This part is applicable to Headquarters, DCA and DCA Field Activities.

§ 287.3 Authority.

This part is published in accordance with the authority contained in Part 286 of this subchapter.

§ 287.4 Responsibilities.

(a) The Assistant Chief of Staff for Administration, Headquarters, DCA will:

(1) Subject to exemptions set forth in § 286.8 of this subchapter and unless readily available elsewhere in published form and incorporated by reference in the FEDERAL REGISTER, arrange for the publication on an up-to-date basis in the FEDERAL REGISTER those circulars, instructions, and notices; and other appropriate material setting forth the DCA functions and informing all interested persons how to deal effectively with the Agency.

(2) Make material described in §§ 286.5 and 286.6 of this subchapter available for public inspection and copying in Headquarters, DCA Eighth Street and South Courthouse Road, Arlington, Va. This material will be indexed in accordance with the appropriate provisions of Part 286 of this subchapter.

(b) Deputy Directors, Comptroller, and the Chief of Staff, DCA will, subject to the exceptions set forth in Part 286 of this subchapter:

(1) Furnish the Assistant Chief of Staff for Administration copies of material described in §§ 286.5 and 286.6 of this subchapter for the purpose of publication in the FEDERAL REGISTER.

(2) Make available to the Civilian Assistant to the Chief of Staff, DCA documentary material which qualifies as a record in accordance with § 286.7 of this subchapter for the purpose of responding to requests from private persons. All such requests will be referred to the Civilian Assistant to the Chief of Staff.

(c) Commanders of DCA field activities will, subject to the applicable limitations and definitions, provide the Assistant Chief of Staff for Administration and Civilian Assistant to the Chief of Staff, DCA, as appropriate, material described in §§ 286.5, 286.6, and 286.7 of this subchapter.

(d) The Civilian Assistant to the Chief of Staff, Headquarters, DCA will:

(1) Respond to all requests from private persons for records, coordinating such release with the Counsel in any case in which release is, or may be, controversial.

(2) Whenever a request for a record is to be denied in accordance with the criteria provided in § 286.9 of this subchapter obtain the concurrence of Counsel, DCA and also satisfy himself that the matter considered is not newsworthy.

(3) Advise private persons denied a record of the basis for the determination and of their right to appeal the decision to the Director, DCA. If such an appeal is taken, the basis for the determination by the Director, DCA to refuse to release the record will be in writing and will be prepared by the Counsel.

§ 287.5 Exemptions.

In all cases in which material is being withheld from public disclosure pursuant to an exemption as provided for in § 286.3 of this subchapter, the concurrence of the Counsel, DCA will be obtained.

§ 287.6 "For Official Use Only" Records.

The designation of "For Official Use Only" will be applied to documents and other material only as authorized by § 286.9 of this subchapter.

MAURICE W. ROCHE,
Director, Correspondence and Directives Division, OSAD (Administration).

[FR Doc.71-10985 Filed 7-30-71;8:50 am]

PART 294—CONSUMER PRODUCTS INFORMATION PROGRAM

The Deputy Secretary of Defense approved the following on June 16, 1971:

Sec.
294.1 Purpose.
294.2 Applicability.
294.3 Definitions.
294.4 Responsibilities and procedures.
294.5 Supplemental guidance and instructions.

AUTHORITY: The provisions of this Part 294 issued under E.O. 11566.

§ 294.1 Purpose.

(a) Public Information Act of July 4, 1966, as amended (5 U.S.C. 552) as implemented by Part 286 of this subchapter outlines policies and procedures for furnishing DoD information to the public and for withholding certain categories of information which are exempt from public disclosure. Executive Order 11566 outlines the policies and responsibilities for making consumer product information available to the public through the Central Consumer Product Information Coordinating Center (CPICC), General Services Administration. E.O. 11566 further outlines (1) the system by which the CPICC will release the product information to the public; and (2) the actions required of each Federal agency in implementing the Executive order.

(b) This part provides guidance to DoD Components in carrying out the provisions of section 2 of E.O. 11566.

§ 294.2 Applicability.

The provisions of this part apply to the Military Departments and the Defense Supply Agency.

§ 294.3 Definitions.

For purposes of this part, product information, as defined in section 5 of Executive Order 11566, includes any releasable documents developed for and/or by the Department of Defense that would be potentially useful to the public consumer in making informed judgments about products in the marketplace.

§ 294.4 Responsibilities and procedures.

(a) The Assistant Secretary of Defense (Installations and Logistics) will:

(1) Monitor overall DoD participation in the Consumer Product Information Program.

(2) Issue supplemental guidance or instructions to § 294.5 as required.

(b) The Secretaries of the Military Departments and Director, Defense Supply Agency will:

(1) Cooperate with the Consumer Product Information Coordinating Center, GSA, in compliance with section 2 of E.O. 11566.

(2) Designate a central focal point for handling all internal Consumer Product Information Program matters.

(3) Comply with the supplemental guidance and instructions contained in § 294.5 and any amendments thereto.

§ 294.5 Supplemental guidance and instructions.

(a) On a recurring basis the Military Departments and Defense Supply Agency will supply the Consumer Product Information Coordinating Center (CPICC) the following types of documentation:

(1) Published product information documents,

(2) Unpublished product information documents that are intended for publication, including changes or revisions to published documents, and

(3) Product information documents not currently planned for publication.

(b) The following instructions will be followed in transmitting documents to the CPICC:

(1) They will be furnished in duplicate.

(2) They will be addressed to the Consumer Product Information Coordinating Center, Office of the Administrator, General Services Administration, Washington, D.C. 20405.

(3) They will be accompanied by—

(i) A letter of transmittal that includes certification by a responsible official that the information provided is releasable in accordance with the provisions of Part 286 of this subchapter and section 2(b) of E.O. 11566.

(ii) A list showing all of the documents furnished including their title, date, number of pages, originating agency, agency from which available, code or identification number, price, and a one or two sentence description of the content;

(iii) A separate 3 x 5 inch card for each document furnished containing the same data as the list in subdivision (ii) of this subparagraph.

(c) A copy of the transmittal letter and listing only paragraph (b)(3)(i) and (ii) of this section will be furnished to Staff Director, Product Assurance Division, OASD(I&L)WR, Washington, D.C. 20301.

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

[FR Doc.71-10944 Filed 7-30-71;8:47 am]

Chapter VII—Department of the Air Force

SUBCHAPTER J—CIVILIAN PERSONNEL

PART 890—EMPLOYMENT POLICIES

Miscellaneous Amendments

Part 890 of Title 32 of the Code of Federal Regulations is amended by revising § 890.1, revising paragraph (c) of § 890.4, and adding a new paragraph (d) to § 890.4, as follows:

§ 890.1 Purpose.

This part contains information needed by commanders, civilian personnel offices, staff offices, and supervisors of civilian personnel. It does not apply to the employment of non-U.S. citizens in foreign areas or Guam or to the employment of local civilians in the Canal Zone.

§ 890.4 Restrictions on employing non-Air Force candidates.

* * * * *

(c) Appointed for 6 months or less and it is not anticipated that the need for his services will extend beyond 6 months.

(d) Appointed for longer than 6 months but not to exceed a year, and the commander of the activity involved (or when serviced by the CCPO of another activity, by joint agreement of the two commanders) considers the appointment of outside applicants without consideration of promotion candidates to be warranted by the impact on effective mission accomplishment. The basis for any exception granted under this paragraph will be fully documented and retained for review by higher levels of authority.

(Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012)

By order of the Secretary of the Air Force.

ALEXANDER J. PALENSCAR, Jr.,
Colonel, U.S. Air Force, Chief, Special Activities Group, Office of The Judge Advocate General.

[FR Doc.71-10927 Filed 7-30-71;8:45 am]

SUBCHAPTER K—MILITARY TRAINING AND SCHOOLS

PART 902—USAF OFFICER TRAINING SCHOOL (OTS)

Miscellaneous Amendments

Part 902 of Chapter VII of Title 32 of the Code of Federal Regulations is amended as follows:

1. Note 3 of Table 8 of § 902.7 is amended by deleting the words, "On AF Form 56, line out the references to 'Career Reserve' in item 17 and", and beginning the first sentence with the following word "Attach".

2. Table 13 of § 902.10 is amended by changing the sentence in the second column on Line E to read: "Order him into active military service for the period specified in his agreement (AF Form 56) (Note 2)."

(Sec. 8012, 70A Stat. 488; sec. 9411, 70A Stat. 571; 10 U.S.C. 8012 and 9411)

By order of the Secretary of the Air Force.

ALEXANDER J. PALENSCAR, Jr.,
Colonel, U.S. Air Force, Chief, Special Activities Group, Office of The Judge Advocate General

[FR Doc.71-10970 Filed 7-30-71;8:49 am]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 207—NAVIGATION REGULATIONS

Pacific Ocean, Hawaii

Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1), § 207.806 is hereby prescribed establishing and governing the use and navigation of a restricted area in the Pacific Ocean at Barbers Point, Island of Oahu, Hawaii, effective 30 days after publication in the FEDERAL REGISTER, as follows:

§ 207.806 Pacific Ocean, at Barbers Point, Island of Oahu, Hawaii; restricted area.

(a) *The area.* That portion of the Pacific Ocean lying offshore of Oahu between Ewa Beach and Barbers Point, basically outlined as follows:

Station	Latitude	Longitude
A (shoreline)	21°18'00"	158°04'24"
B	21°17'00"	158°03'30"
C	21°15'00"	158°03'18"
D	21°15'30"	158°01'00"
E (shoreline)	21°18'30"	158°02'00"

(b) *The regulations.* (1) Vessels shall not anchor within the area at any time.

(2) Dredging, dragging, seining, or other fishing operations which might foul underwater installations within the area are prohibited.

(3) Use of the restricted area for boating, fishing (except as prohibited in subparagraph (2) of this paragraph) and other surface activities is authorized.

(4) The regulations of this section shall be enforced by the Commander, Hawaiian Sea Frontier, U.S. Navy and such agencies as he may designate.

[Regs., June 29, 1971, 1522-01—ENGCW-ON]
(Sec. 7, 40 Stat. 266; 33 U.S.C. 1; sec. 3012, 70A Stat. 157; 10 U.S.C. 3012)

For the Adjutant General.

R. B. BELNAP,
Special Advisor to TAG.

[FR Doc.71-10926 Filed 7-30-71;8:45 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 15—Environmental Protection Agency

PART 15–1—GENERAL

Subpart 15–1.7—Small Business Concerns

Small Business Concerns, Subpart 15–1.7, is hereby added to Chapter 15, Title 41, of the Code of Federal Regulations.

Effective date. This regulation will become effective on its date of publication in the FEDERAL REGISTER (7–31–71).

Dated: July 28, 1971.

WILLIAM D. RUCKELSHAUS,
Administrator.

Subpart 15–1.7—Small Business Concerns

Sec.

AUTHORITY: The provisions of this Subpart 15–1.7 issued under 40 U.S.C. 486(c), sec. 205(c), 63 Stat. 377, as amended.

§ 15–1.704 Agency program direction and operation.

§ 15–1.704–1 Small business assistance officer.

The Administrator will designate an official as the Agency's small business assistance officer. The small business assistance officer will be responsible, either on a full-time basis or as a collateral duty, for the establishment, implementation, and execution of the small business program. He will be the central point of contact for inquiries concerning the small business program from industry, the Small Businses Administration (SBA), the Congress, the Office of the Administrator, Environmental Protection Agency, and others. His duties shall include developing a plan of operation to increase the share of contracts awarded to small business by Environmental Protection Agency.

§ 15–1.704–2 Small business specialist.

(a) Each chief of Contract Operations shall appoint by name and in writing a small business specialist for each procurement office over which he exercises control, to perform the duties set forth in this section on either a full-time or part-time basis. Only individuals possessing the necessary business acumen, knowledge of the Environmental Protection Agency's procurement policies and procedures, and training and background to accomplish effectively the objective of the small business program shall be considered for appointment. In any instance where the appointee's duty as small business specialist is to be a part-time basis, the appointment shall clearly indicate that the part-time nature of the assignment shall in no way relieve the individual from full responsibility for effectively accomplishing the activity's small business program requirements.

(b) The small business specialist appointed pursuant to paragraph (a) of this section shall perform such of the following duties as are appropriate for his procurement office:

(1) Maintain a program designed to locate capable small business sources for current and future procurements;

(2) Coordinate inquiries and requests for advice from small business concerns on procurement matters;

(3) Review proposed solicitations for supplies and services, assure that small business concerns will be afforded an equitable opportunity to compete, and, as appropriate, initiate recommendations for small business set-asides;

(4) Take action to assure the availability of adequate specifications and drawings, when necessary, to obtain small business participation in a procurement;

(5) Review proposed procurements for possible breakout of items suitable for procurement from small business concerns;

(6) Advise small business concerns with respect to the financial assistance available under existing laws and regulations and assist such concerns in applying for financial assistance;

(7) Participate in determinations concerning the responsibility of a prospective small business contractor;

(8) Participate in the evaluation of a prime contractor's small business subcontracting programs;

(9) Assure that adequate records are maintained, and accurate reports prepared, concerning small business participation in the procurement program;

(10) Make available to SBA copies of solicitations, when so requested; and

(11) Act as liaison between the contracting officer and the appropriate SBA office in connection with set-asides, certificates of competency, size classification, and any other matter in which the small business program may be involved.

§ 15–1.706–50 Procurement set-asides for small business when an SBA representative is not available.

§ 15–1.706–50–1 General.

If no SBA representative is available, the small business specialist shall initiate recommendations to the contracting officer for small business set-asides with respect to individual procurements or classes of procurements or portions thereof.

§ 15–1.706–50–2 Review of set-aside recommendations initiated by small business specialist.

When a small business specialist has recommended that all, or a portion, of an individual procurement or class of procurements be set aside for small business, the contracting officer shall promptly either (a) concur in the recommendation or (b) disapprove the recommendation, stating in writing his reasons for disapproval. If the contracting officer disapproves the recommendation of a small business specialist, the small business specialist may appeal to the appropriate chief of Contract Operations, whose decision shall be final.

§ 15–1.706–50–3 Withdrawal or modification of set-asides.

Withdrawal or modification of an individual or class set-aside which was originally established upon the recommendation of the small business specialist may be proposed by the contracting officer by giving notice, containing the reason for the proposed withdrawal or modification, to the small business specialist. If the small business specialist does not agree to a withdrawal or modification, he may appeal to the appropriate chief of Contract Operations, whose decision shall be final.

§ 15–1.706–50–4 Small business set-aside for proposed procurement.

(a) Each proposed procurement for construction estimated to cost between $2,000 and $500,000 shall be set aside for exclusive small business participation. Such set-asides shall be considered to be unilateral small business set-asides, and shall be withdrawn, in accordance with the procedure of FPR 1–1.705–3 and § 15–1.706–50–3, only if found not to serve the best interest of the Government.

(b) Small business set-aside preferences for construction procurements in excess of $500,000 shall be considered on a case-by-case basis.

[FR Doc.71-10940 Filed 7-30-71;8:46 am]

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Third Revised S.O. 1064; Amdt. 2]

PART 1033—CAR SERVICE

Distribution of Boxcars

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 27th day of July 1971.

Upon further consideration of Third Revised Service Order No. 1064 (36 F.R. 13888) and good cause appearing therefor:

It appearing, that, because of a work stoppage of certain of its operating employees, the Union Pacific Railroad Co. is unable to accept from connections

its plain boxcars described in paragraph (a)(1) of this order; that the requirements of this order that such cars be returned empty to the Union Pacific Railroad Co. during the period this work stoppage is in effect would be of no benefit to shippers served by the Union Pacific Railroad Co. but would deprive shippers served by other railroads of the use of such cars.

It is ordered, That: section 1033.1064 Service Order No. 1064 (Distribution of Boxcars) be, and it is hereby, amended by adding the following subdivision (ii) to paragraph (a)(1) of Third Revised Service Order No. 1064:

(ii) The provisions of this subparagraph (1) and subparagraph (8) of this paragraph (a) of Third Revised Service Order No. 1064, insofar as they apply to cars owned by the Union Pacific Railroad Co. are hereby suspended until 5:59 a.m., August 6, 1971.

Effective date. This amendment shall become effective at 12:01 a.m., July 27, 1971.

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

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

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-10999 Filed 7-30-71;8:52 am]

[S.O. 1075; Amdt. 1]

PART 1033—CAR SERVICE

Distribution of Refrigerator Cars

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 23d day of July 1971.

Upon further consideration of Service Order No. 1075 (36 F.R. 12305), and good cause appearing therefor:

It appearing, that, because of a work stoppage of operating employees interfering with railroad operations, various railroads are unable to conduct normal operations.

It is ordered, That: section 1033.1075 *Service Order No. 1075* (Distribution of Refrigerator Cars) be, and it is hereby amended by adding the following subparagraph (6) to paragraph (a) thereof and by substituting the following paragraph (d) for paragraph (d) thereof:

§ 1033.75 Service Order No. 1075.

(a) * * *

(6) For the purpose of improving car utilization and the efficiency of railroad operations, or alleviating inequities or hardships, modifications for handling freight requiring protection from heat or cold, may be authorized by the Chief Transportation Officer of the Pacific Fruit Express Co., or by R. D. Pfahler, Director, Bureau of Operations, Interstate Commerce Commission. Modifications for handling freight requiring protection from heat or cold, authorized by the Pacific Fruit Express Co. must be confirmed in writing to W. H. Van Slyke, Chairman, Car Service Division, Association of American Railroads, Washington, D.C., for submission to and approval by R. D. Pfahler.

* * * * *

(d) *Expiration date*. This order shall expire at 11:59 p.m., August 31, 1971, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 6 a.m., July 24, 1971.

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

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

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-11003 Filed 7-30-71;8:52 am]

Title 50—WILDLIFE AND FISHERIES

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

PART 32—HUNTING

Parker River National Wildlife Refuge, Mass.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (7–31–71).

§ 32.12 Special regulations: migratory game birds; for individual wildlife refuge areas.

MASSACHUSETTS

PARKER RIVER NATIONAL WILDLIFE REFUGE

Public hunting of waterfowl and coots on the Parker River National Wildlife Refuge, Mass., is permitted only on the areas designated by signs as open to hunting. These open areas, comprising 1,900 acres, and known as the Pine Island Hunting Area, Parker River Hunting Area, Nelson's Island Hunting Area, and the Youth Hunting Area, are delineated on maps available at refuge headquarters, Newburyport, Mass., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Post Office and Courthouse, Boston, Mass. 02109. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of migratory game birds, subject to the following special conditions:

(1) The number of hunters on the Pine Island Area will be limited to 100 each day, Parker River Area to 50 each day, and the Nelson's Island Area to 50 each day. Participation will be on a first-come, first-served basis from Monday through Friday, except holidays and opening day. Participation on opening day, Saturdays and holidays will be by advance permit secured via mail. Hunters on all three areas are limited to 25 shotshells per day.

(2) The Youth Hunting Area will be open during the regular State waterfowl season for Young Waterfowl trainees on selected Saturdays in October and November under the provisions of this special program. Literature describing this program is available at the refuge headquarters.

The provisions of this special regulation supplement the regulations governing hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 31, 1972.

RICHARD E. GRIFFITH,
Regional Director, Bureau of Sport Fisheries and Wildlife.

JULY 23, 1971.

[FR Doc.71-10931 Filed 7-30-71;8:45 am]

PART 32—HUNTING

Wichita Mountains Wildlife Refuge, Okla.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (7–31–71).

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

OKLAHOMA

WICHITA MOUNTAINS WILDLIFE REFUGE

Public hunting of elk on Wichita Mountains Wildlife Refuge, Okla., is permitted only in the Pinchot, Graham Flat,

and Quanah-Elk Mountain pastures. This open area, comprising approximately 39,000 acres, is delineated on a map available at refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, 500 Gold Avenue SW., Albuquerque, NM 87103. Hunting shall be in accordance with all applicable State regulations covering the hunting of elk on the Wichita Mountains Wildlife Refuge subject to the following special conditions:

(1) No personnel of the Bureau of Sport Fisheries and Wildlife or of the Oklahoma Department of Wildlife Conservation are eligible to hunt.

(2) Except as provided in special condition (3) below, the applicable portions of the Quanah-Elk Mountain Pasture will be closed to all public use except elk hunting during hunt periods.

(3) Authorized hunters may retain approved, unloaded hunting rifles and camp overnight (in Camp Doris only) during those periods when the Quanah-Elk Mountain Pasture is closed to all other public use. Such camping hunters may be accompanied by, not to exceed, one camping companion who will be confined to Camp Doris during hunt periods unless authorized to assist with the removal of game by the Refuge Manager or his agent.

The provision of this special regulation supplements 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 December 19, 1971.

JULIAN A. HOWARD,
Refuge Manager, Wichita Mountains Wildlife Refuge, Cache, Oklahoma.

JULY 23, 1971.

[FR Doc.71-10961 Filed 7-30-71;8:48 am]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

UNRELATED DEBT-FINANCED INCOME

Notice of Proposed Rule Making

Notice is hereby given that the regulations set forth in tentative form in the attached appendix are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by August 30, 1971. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by August 30, 1971. 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] HAROLD T. SWARTZ,
Acting Commissioner of Internal Revenue.

In order to conform the Income Tax Regulations (26 CFR Part 1) under sections 48, 512, 514, and 1443 of the Internal Revenue Code of 1954 to sections 121(d) and 121(g) of the Tax Reform Act of 1969 (83 Stat. 543), such regulations are amended as follows:

PARAGRAPH 1. Section 1.48 is amended by revising section 48(a)(4), and by adding a historical note. The amended and added provisions read as follows:

§ 1.48 Statutory provisions; definitions; special rules.

SEC. 48 *Definitions; special rules*—(a) *Section 38 property.*

* * * * *

(4) *Property used by certain tax-exempt organizations.* Property used by an organization (other than a cooperative described in section 521) which is exempt from the tax imposed by this chapter shall be treated as section 38 property only if such property is used predominantly in an unrelated trade or business the income of which is subject to tax under section 511. If the property is debt-financed property (as defined in section 514(c)[(b)], the basis or cost of such property for purposes of computing qualified investment under section 46(c) shall include only that percentage of the basis or cost which is the same percentage as is used under section 514(b)[(a)], for the year the property is placed in service, in computing the amount of gross income to be taken into account during such taxable year with respect to such property.

[Sec. 48(a)(4) as amended by sec. 121(d), Tax Reform Act 1969 (83 Stat. 547)]

PAR. 2. Paragraph (j) of § 1.48–1 is amended to read as follows:

§ 1.48–1 Definition of section 38 property.

* * * * *

(j) *Property used by certain tax-exempt organizations.* The term "section 38 property" does not include property used by an organization (other than a cooperative described in section 521) which is exempt from the tax imposed by chapter 1 of the Code unless such property is used predominantly in an unrelated trade or business the income of which is subject to tax under section 511. If such property is debt-financed property as defined in section 514(b), the basis or cost of such property for purposes of computing qualified investment under section 46(c) shall include only that percentage of the basis or cost which is the same percentage as is used under section 514(a), for the year the property is placed in service, in computing the amount of gross income to be taken into account during such taxable year with respect to such property. The term "property used by an organization" means (1) property owned by the organization (whether or not leased to another person), and (2) property leased to the organization. Thus, for example, a data processing or copying machine which is leased to an organization exempt from tax would be considered as property used by such organization. Property (unless used predominantly in an unrelated trade or business) leased by another person to an organization exempt from tax or leased by such an organization to another person is not section 38 property to either the lessor or the lessee, and in either case the lessor may not elect under § 1.48–4 to treat the lessee of such property as having purchased such property for purposes of the credit allowed by section 38. This paragraph shall not apply to property leased on a casual or short-term basis to an organization exempt from tax.

PAR. 3. Section 1.512(b) is amended by revising subsection (b)(4) and revising the historical note. These amended provisions read as follows:

§ 1.512(b) Statutory provisions; unrelated business taxable income; modifications.

SEC. 512 *Unrelated business taxable income.*

* * * * *

(b) *Modifications.*

* * * * *

(4) Notwithstanding paragraph (1), (2), (3), or (5), in the case of debt-financed property (as defined in section 514) there shall be included, as an item of gross income derived from an unrelated trade or business, the amount ascertained under section 514(a)(1), and there shall be allowed, as a deduction, the amount ascertained under section 514(a)(2).

* * * * *

[Sec. 512(b) as amended by Act of Apr. 7, 1958 (Public Law 85–367, 72 Stat. 80); Act of July 17, 1964 (Public Law 88–380, 78 Stat. 333); section 121(b)(2), Tax Reform Act, 1969 (83 Stat. 538)]

PAR. 4. Section 1.512(b)–1 is amended by revising that part that precedes paragraph (c), by revising paragraph (d), and by adding a paragraph (k) immediately following paragraph (j). These amended and added provisions read as follows:

§ 1.512(b)–1 Modifications.

Whether a particular item of income falls within any of the modifications provided in section 512(b) shall be determined by all the facts and circumstances of each case. For example, if a payment termed "rent" by the parties is in fact a return of profits by a person operating the property for the benefit of the tax-exempt organization or is a share of the profits retained by such organization as a partner or joint venturer, such payment is not within the modification for rents. The modifications provided in section 512(b) are as follows:

(a) *Dividends, interest, and annuities.* Dividends, interest, and annuities, and the deductions directly connected therewith, shall be excluded in computing unrelated business taxable income. However, for taxable years beginning after December 31, 1969, certain dividends, interest, and annuities derived from and certain deductions in connection with debt-financed property (as defined in section 514(b)), and certain interest and annuities derived from and certain deductions in connection with controlled organizations (as defined in paragraph (l) of this section) shall be included in computing unrelated business taxable income.

(b) *Royalties.* Royalties, including overriding royalties, and the deductions directly connected with such income shall be excluded in computing unrelated business taxable income. However, for taxable years beginning after December 31,

1969, certain royalties from and certain deductions in connection with either, debt-financed property (as defined in section 514(b)) or controlled organizations (as defined in paragraph (1) of this section) shall be included in computing unrelated business taxable income. Mineral royalties shall be excluded whether measured by production or by gross or taxable income from the mineral property. However, where an organization owns a working interest in a mineral property, and is not relieved of its share of the development costs by the terms of any agreement with an operator, income received from such an interest shall not be excluded. In-oil payments shall be treated in the same manner as royalty payments for the purpose of computing unrelated business taxable income.

* * * * *

(d) *Gains and losses from the sale, etc. of property.* There shall also be excluded from the computation of unrelated business taxable income gains or losses from the sale, exchange, or other disposition of property other than (1) stock in trade or other property of a kind which would properly be included in the inventory of the organization if on hand at the close of the taxable year, or (2) property held primarily for sale to customers in the ordinary course of the trade or business. This exclusion does not apply with respect to the cutting of timber which is considered, upon the application of section 631(a), as a sale or exchange of such timber. In addition, for taxable years beginning after December 31, 1969, this exclusion does not apply to the gain derived from the sale or other disposition of debt-financed property (as defined in section 514(b)). Otherwise, the exclusion under section 512(b)(5) applies with respect to gains and losses from involuntary conversions, casualties, etc.

* * * * *

(k) *Income and deductions from debt-financed property.* For taxable years beginning after December 31, 1969, in the case of debt-financed property (as defined in section 514(b)), there shall be included in the unrelated business taxable income of an exempt organization, as an item of income derived from an unrelated trade or business, the amount of unrelated debt-financed income determined under section 514(a)(1) and § 1.514(a)-1(a), and there shall be allowed, as a deduction with respect to such income, the amount determined under section 514(a)(2) and § 1.514(a)-1(b).

* * * * *

PAR. 5. The regulations under section 514 are recodified. Sections 1.514(a), 1.514(a)-1, 1.514(a)-2, 1.514(b), 1.514(b)-1, 1.514(c), 1.514(c)-1, and 1.514(d) are revised, and there are added §§ 1.514(d)-1, 1.514(e), 1.514(e)-1, 1.514(f), 1.514(f)-1, 1.514(g), 1.514(g)-1, and 1.514(h). These revised, added, and recodified provisions read as follows:

§ 1.514(a) Statutory provisions; unrelated debt-financed income; unrelated debt-financed income and deductions.

SEC. 514. *Unrelated debt-financed income*—(a) *Unrelated debt-financed income and deductions.* In computing under section 512 the unrelated business taxable income for any taxable year—

(1) *Percentage of income taken into account.* There shall be included with respect to each debt-financed property as an item of gross income derived from an unrelated trade or business an amount which is the same percentage (but not in excess of 100 percent) of the total gross income derived during the taxable year from or on account of such property as (A) the average acquisition indebtedness (as defined in subsection (c)(7)) for the taxable year with respect to the property is of (B) the average amount (determined under regulations prescribed by the Secretary or his delegate) of the adjusted basis of such property during the period it is held by the organization during such taxable year.

(2) *Percentage of deductions taken into account.* There shall be allowed as a deduction with respect to each debt-financed property an amount determined by applying (except as provided in the last sentence of this paragraph) the percentage derived under paragraph (1) to the sum determined under paragraph (3). The percentage derived under this paragraph shall not be applied with respect to the deduction of any capital loss resulting from the carryback or carryover of net capital losses under section 1212.

(3) *Deductions allowable.* The sum referred to in paragraph (2) is the sum of the deductions under this chapter which are directly connected with the debt-financed property or the income therefrom, except that if the debt-financed property is of a character which is subject to the allowance for depreciation provided in section 167, the allowance shall be computed only by use of the straight-line method.

[Sec. 514(a) as amended by section 121(d), the Tax Reform Act of 1969 (83 Stat. 543)]

§ 1.514(a)-1 Unrelated debt-financed income and deductions.

(a) *Income includible in gross income*—

(1) *Percentage of income taken into account*—(i) *In general.* For taxable years beginning after December 31, 1969, there shall be included with respect to each debt-financed property (as defined in section 514 and § 1.514(b)-1) as an item of gross income derived from an unrelated trade or business the amount of unrelated debt-financed income (as defined in subdivision (ii) of this subparagraph). See paragraph (a)(5) of § 1.514(c)-1 for special rules regarding indebtedness incurred before June 28, 1966, applicable for taxable years beginning before January 1, 1972, and for special rules applicable to churches or conventions or associations of churches.

(ii) *Unrelated debt-financed income.* The "unrelated debt-financed income" with respect to each debt-financed property is an amount which is the same percentage (but not in excess of 100 percent) of the total gross income derived during the taxable year from or on account of such property as—

(a) The average acquisition indebtedness (as defined in subparagraph (3) of this paragraph) with respect to the property is of

(b) The average adjusted basis of such property (as defined in subparagraph (2) of this paragraph).

(iii) *Debt/basis percentage.* The percentage determined under subdivision (ii) of this subparagraph is hereinafter referred to as the "debt/basis percentage".

(iv) *Example.* Subdivisions (i), (ii), and (iii) of this subparagraph are illustrated by the following example. For purposes of this example it is assumed that the property is debt-financed property.

Example. X, an exempt trade association, owns an office building which in 1971 produces $10,000 of gross rental income. The average adjusted basis of the building for 1971 is $100,000, and the average acquisition indebtedness with respect to the building for 1971 is $50,000. Accordingly, the debt/basis percentage for 1971 is 50 percent (the ratio of $50,000 to $100,000). Therefore, the unrelated debt-financed income with respect to the building for 1971 is $5,000 (50 percent of $10,000).

(v) *Gain from sale or other disposition.* If debt-financed property is sold or otherwise disposed of, there shall be included in computing unrelated business taxable income an amount with respect to such gain (or loss) which is the same percentage (but not in excess of 100 percent) of the total gain (or loss) derived from such sale or other disposition as—

(a) The highest acquisition indebtedness with respect to such property during the 12-month period, preceding the date of disposition, is of

(b) The average adjusted basis of such property.

The tax on the amount of gain (or loss) included in unrelated business taxable income pursuant to the preceding sentence shall be determined in accordance with the rules set forth in subchapter P, chapter 1 of the Code (relating to capital gains and losses). See also section 511(d) and the regulations thereunder (relating to the minimum tax for tax preferences).

(2) *Average adjusted basis*—(i) *In general.* The "average adjusted basis" of debt-financed property is the average amount of the adjusted basis of such property during that portion of the taxable year it is held by the organization. This amount is the average of:

(a) The adjusted basis of such property as of the first day during the taxable year that the organization holds the property, and

(b) The adjusted basis of such property as of the last day during the taxable year that the organization holds the property.

See section 1011 and the regulations thereunder for determination of the adjusted basis of property.

(ii) *Adjustments for prior taxable years.* For purposes of subdivision (i) of this subparagraph, the determination of

the average adjusted basis of debt-financed property is not affected by the fact that the organization was exempt from taxation for prior taxable years. Proper adjustment must be made under section 1011 for the entire period since the acquisition of the property. For example, adjustment must be made for depreciation for all prior taxable years whether or not the organization was exempt from taxation for any such years. Similarily, the fact that only a portion of the depreciation allowance may be taken into acount in computing the percentage of deductions allowable under section 514(a)(2) does not affect the amount of the adjustment for depreciation which is used in determining average adjusted basis.

(iii) *Cross reference.* For the determination of the basis of debt-financed property acquired in a complete or partial liquidation of a corporation in exchange for its stock, see § 1.514(d)–1.

(iv) *Example.* This subparagraph may be illustrated by the following example. For purposes of this example it is assumed that the property is debt-financed property.

Example. On July 10, 1970, X, an exempt educational organization, purchased an office building for $510,000, using $300,000 of borrowed funds. During 1970 the only adjustment to basis is $20,000 for depreciation. As of December 31, 1970, the adjusted basis of the building is $490,000 and the indebtedness is still $300,000. X files its return on a calendar year basis. Under these circumstances, the debt/basis percentage for 1970 is 60 percent, calculated in the following manner:

	Basis
As of July 10, 1970 (acquisition date)	$510,000
As of December 31, 1970	490,000
Total	$1,000,000

Average Adjusted basis:
$1,000,000÷2=$500,000

Debt/basis percentage:

$$\frac{\text{Average acquisition indebtedness}}{\text{Average adjusted basis}} = \frac{\$300,000}{\$500,000} = 60 \text{ percent}$$

For an illustration of the determination of the debt/basis percentage as changes in the acquisition indebtedness occur, see example (1) of subparagraph (3)(iii) of this paragraph.

(3) *Average acquisition indebtedness*—(i) *In general.* The "average acquisition indebtedness" with respect to debt-financed property as the average amount of the outstanding principal indebtedness during that portion of the taxable year the property is held by the organization.

(ii) *Computation.* The average acquisition indebtedness is computed by determining the amount of the outstanding principal indebtedness on the first day in each calendar month during the taxable year that the organization holds the property, adding these amounts together, and then dividing this sum by the total number of months during the taxable year that the organization held such property. A fractional part of a month shall be treated as a full month in computing average acquisition indebtedness.

(iii) *Examples.* The application of this subparagraph may be illustrated by the following examples. For purposes of these examples it is assumed that the property is debt-financed property.

Example (1). Assume the facts as stated in the example in subparagraph (2)(iv) of this paragraph, except that beginning July 20, 1970, the organization makes payments of $21,000 a month ($20,000 of which is attributable to principal and $1,000 to interest). In this situation, the average acquisition indebtedness for 1970 is $250,000. Thus, the debt/basis percentage for 1970 is 50 percent, calculated in the following manner:

Month:	*Indebtedness on the first day in each calendar month that the property is held*
July	$ 300,000
August	280,000
September	260,000
October	240,000
November	220,000
December	200,000
Total	1,500,000

Average acquisition indebtedness:
$1,500,000÷6 months=$250,000

Debt/basis percentage:

$$\frac{\text{Average acquisition indebtedness}}{\text{Average adjusted basis}} = \frac{\$250,000}{\$500,000} = 50 \text{ percent}$$

Example (2). Y, an exempt organization, owns stock in a corporation which it does not control. At the beginning of the year, Y has an outstanding principal indebtedness with respect to such stock of $12,000. Such indebtedness is paid off at the rate of $2,000 per month beginning January 30, so that it is retired at the end of 6 months. The average acquisition indebtedness for the taxable year is $3,500, calculated in the following manner:

Month:	*Indebtedness on the first day in each calendar month that the property is held*
January	$12,000
February	10,000
March	8,000
April	6,000
May	4,000
June	2,000
July thru December	0
Total	42,000

Average acquisition indebtedness:
$42,000÷12 months=$3,500

(4) *Indeterminate price*—(i) *In general.* If an exempt organization acquires (or improves) property for an indeterminate price, the initial acquisition indebtedness and the unadjusted basis shall be determined in accordance with subdivisions (ii) and (iii) of this paragraph, unless the organization has obtained the consent of the Commissioner to use another method to compute such amounts.

(ii) *Unadjusted basis.* For purposes of this subparagraph, the unadjusted basis of property (or of an improvement) is the fair market value of the property (or improvement) on the date of acquisition (or the date of completion of the improvement). The average adjusted basis of such property shall be determined in accordance with paragraph (a)(2) of this section.

(iii) *Initial acquisition indebtedness.* For purposes of this subparagraph, the initial acquisition indebtedness is the fair market value of the property (or improvement) on the date of acquisition (or the date of completion of the improvement) less any down payment or other initial payment applied to the principal indebtedness. The average acquisition indebtedness with respect to such property shall be computed in accordance with paragraph (a)(3) of this section.

(iv) *Example.* The application of this subparagraph may be illustrated by the following example. For purposes of this example it is assumed that the property is debt-financed property.

Example. On January 1, 1971, X, an exempt trade association, acquires an office building for a down payment of $310,000 and an agreement to pay 10 percent of the income generated by the building for 10 years. Neither the sales price nor the amount which X is obligated to pay in the future area certain. The fair market value of the building on the date of acquisition is $600,000. The depreciation allowance for 1971 is $40,000. Unless X obtains the consent of the Commissioner to use another method, the unadjusted basis of the property is $600,000 (the fair market value of the property on the date of acquisition), and the initial acquisition indebtedness is $290,000 (fair market value of $600,000 less initial payment of $310,000). Under these circumstances, the average adjusted basis of the property for 1971 is $580,000, calculated as follows:

$$\frac{\text{Initial fair market value} + \text{(initial fair market value less depreciation)}}{2} = \frac{\$600,000 + (\$600,000 - \$400,000)}{2} = \$580,000$$

If no payment other than the initial payment is made in 1971, the average acquisition indebtedness for 1971 is $290,000. Thus, the debt/basis percentage for 1971 is 50 percent, claculated as follows:

$$\frac{\text{average acquisition indebtedness}}{\text{average adjusted basis}} = \frac{\$290,000}{\$580,000} = 50 \text{ percent}$$

(b) *Deductions*—(1) *Percentage of deductions taken into account.* Except as provided in subparagraphs (4) and (5) of this paragraph, there shall be allowed as a deduction with respect to each debt-financed property an amount determined by applying the debt/basis percentage to the sum of the deductions allowable under subparagraph (2) of this paragraph.

(2) *Deductions allowable.* The deductions allowable are those items allowed as deductions by chapter 1 of the Code which are directly connected with the

debt-financed property or the income therefrom, except that—

(i) The allowable deductions are subject to the modifications provided by section 512(b) on computation of the unrelated business taxable income, and

(ii) If the debt-financed property is of a character which is subject to the allowance for depreciation provided in section 167, such allowance shall be computed only by use of the straight-line method of depreciation.

(3) *Directly connected with.* To be "directly connected with" debt-financed property or the income therefrom, an item of deduction must have proximate and primary relationship to such property or the income therefrom. Expenses, depreciation, and similar items attributable solely to such property are proximately and primarily related to such property or the income therefrom, and therefore qualify for deduction, to the extent they meet the requirements of subparagraph (2) of this paragraph. Thus, for example, if the straight-line depreciation allowance for an office building is $10,000 a year, an organization would be allowed a deduction for depreciation of $10,000 if the entire building were debt-financed property. However, if only one-half of the building were treated as debt-financed property, then the depreciation allowed as a deduction would be $5,000. (See example (2) of § 1.514(b)-1(b)(1)(iii).)

(4) *Capital losses*—(i) *In general.* If the sale or exchange of debt-financed property results in a capital loss, the amount of such loss taken into account in the taxable year in which the loss arises shall be computed in accordance with paragraph (a)(1)(v) of this section. If, however, any portion of such capital loss not taken into account in such year may be carried back or carried over to another taxable year, the debt/basis percentage is not applied to determine what portion of such capital loss may be taken as a deduction in the year to which such capital loss is carried.

(ii) *Example.* This subparagraph is illustrated by the following example. For purposes of this example it is assumed that the property is debt-financed property.

Example. X, an exempt educational organization, owns securities which are capital assets and which it has held for more than 6 months. In 1972 X sells the securities at a loss of $20,000. The debt/basis percentage with respect to computing the gain (or loss) derived from the sale of the securities is 40 percent. Thus, X has sustained a capital loss of $8,000 (40 percent of $20,000) with respect to the sale of the securities. For 1972 and the preceding three taxable years X has no other capital transactions. Under these circumstances, the $8,000 of capital loss may be carried over to the succeeding 5 taxable years without further application of the debt/basis percentage.

(5) *Net operating loss*—(i) *In general.* If, after applying the debt/basis percentage to the income derived from debt-financed property and the deductions directly connected with such income, such deductions exceed such income, the organization has sustained a net operating loss for the taxable year. This amount may be carried back or carried over to other taxable years in accordance with section 512(b)(6). However, the debt/basis percentage shall not be applied in such other years to determine the amounts that may be taken as a deduction in those years.

(ii) *Example.* This subparagraph may be illustrated by the following example. For purposes of this example it is assumed that the property is debt-financed property.

Example. During 1974, Y, an exempt organization, receives $20,000 of rent from a building which it owns. Y has no other unrelated business taxable income for 1974. For 1974 the deductions directly connected with this building are property taxes of $5,000, interest of $5,000 on the acquisition indebtedness, and salary of $15,000 to the manager of the building. The debt/basis percentage for 1974 with respect to the building is 50 percent. Under these circumstances, Y shall take into account in computing its unrelated business taxable income for 1974, $10,000 of income (50 percent of $20,000) and $12,500 (50 percent of $25,000) of the deductions directly connected with such income. Thus, for 1974 Y has sustained a net operating loss of $2,500 ($10,000 of income less $12,500 of deductions) which may be carried back or carried over to other taxable years without further application of the debt/basis percentage.

§ 1.514(a)-2 Business lease rents and deductions for taxable years beginning before January 1, 1970.

(a) *Effective date.* This section applies to taxable years beginning before January 1, 1970.

(b) *In general*—(1) *Rents includible in gross income.* There shall be included with respect to each business lease, as an item of gross income derived from an unrelated trade or business, an amount which is the same percentage (but not in excess of 100 percent) of the total rents derived during the taxable year under such lease as—

(i) The amount of the business lease indebtedness at the close of the taxable year of the lessor tax-exempt organization, with respect to the premises covered by such lease, is of

(ii) The adjusted basis of such premises at the close of such taxable year.

For definition of business lease as a lease for a term of more than 5 years, and for rules for determining the computation of such 5-year term in certain specific situations, see § 1.514(f)-1. For definition of business lease indebtedness and allocation of business lease indebtedness where only a portion of the property is subject to a business lease, see § 1.514(g)-1.

(2) *Determination of basis.* For purposes of the unrelated business income tax the basis (unadjusted) of property is determined under section 1012, and the adjusted basis of property is determined under section 1011. The determination of the adjusted basis of property is not affected by the fact that the organization was exempt from tax for prior taxable years. Proper adjustment must be made under section 1011 for the entire period since the acquisition of the property. Thus adjustment must be made for depreciation for all taxable years whether or not the organization was exempt from tax for any of such years. Similarly, for taxable years during which the organization is subject to the tax on unrelated business taxable income the fact that only a portion of the deduction for depreciation is taken into account under paragraph (b)(1) of this section does not affect the amount of the adjustment for depreciation.

(3) *Examples.* The application of this paragraph may be illustrated by the following examples, in each of which it is assumed that the taxpayer makes its returns under section 511 on the basis of the calendar year, and that the lease is not substantially related to the purpose for which the organization is granted exemption from tax.

Example (1). Assume that a tax-exempt educational organization purchased property in 1952 for $600,000, using borrowed funds, and leased the building for a period of 20 years. Assume further that the adjusted basis of such building at the close of 1954 is $500,000 and that, at the close of 1954, $200,000 of the indebtedness incurred to acquire the property remains outstanding. Since the amount of the outstanding indebtedness is two-fifths of the adjusted basis of the building at the close of 1954, two-fifths of the gross rental received from the building during 1954 shall be included as an item of gross income in computing unrelated business taxable income. If, at the close of a subsequent taxable year, the outstanding indebtedness is $100,000 and the adjusted basis of the building is $400,000, one-fourth of the gross rental for such taxable year shall be included as an item of gross income in computing unrelated business taxable income for such taxable year.

Example (2). Assume that a tax-exempt organization owns a four-story building, that in 1954 it borrows $100,000 which it uses to improve the whole building, and that it thereafter in 1954 rents the first and second floors of the building under six-year leases at rentals of $4,000 a year. The third and fourth floors of the building are leased on a yearly basis during 1954. Assume, also, that the adjusted basis of the real property at the end of 1954 (after reflecting the expenditures for improving the building) is $200,000, allocable equally to each of the four stories. Under these facts, only one-half of the real property is subject to a business lease since only one-half is rented under a lease for more than 5 years. See § 1.514(f)-1. The percentage of the rent under such lease which is taken into account is determined by the ratio which the allocable part of the business lease indebtedness bears to the allocable part of the adjusted basis of the real property, that is, the ratio which one-half of the $100,000 of business lease indebtedness outstanding at the close of 1954, or $50,000, bears to one-half of the adjusted basis of the business lease premises at the close of 1954, or $100,000. The percentage of rent which is business lease income for 1954 is, therefore, one-half (the ratio of $50,000 to $100,000) of $8,000, or $4,000, and this amount of $4,000 is considered an item of gross income derived from an unrelated trade or business.

(c) *Deductions*—(1) *Deductions allowable against gross income.* The same percentage is used in determining both

the portion of the rent and the portion of the deductions taken into account with respect to the business lease in computing unrelated business taxable income. Such percentage is applicable only to the sum of the following deductions allowable under section 161:

(i) Taxes and other expenses paid or accrued during the taxable year upon or with respect to the real property subject to the business lease;

(ii) Interest paid or accrued during the taxable year on the business lease indebtedness;

(iii) A reasonable allowance for exhaustion, wear and tear (including a reasonable allowance for obsolescence) of the real property subject to such lease.

Where only a portion of the real property is subject to the business lease, there shall be taken into account only those amounts of the above-listed deductions which are properly allocable to the premises covered by such lease.

(2) *Excess deductions.* The deductions allowable under subparagraph (1) of this paragraph with respect to a business lease are not limited by the amount included in gross income with respect to the rent from such lease. Any excess of such deductions over such gross income shall be applied against other items of gross income in computing unrelated business taxable income taxable under section 511(a).

(3) The application of this paragraph may be illustrated by the following example:

Example. Assume the same facts as those in example (1) in paragraph (a) of this section. Assume, also that for 1954 the organization pays taxes of $4,000 on the property, interest of $6,000 on its business lease indebtedness, and that the depreciation allowable for 1954 under section 167 is $10,000. Under the facts set forth in such example (1) and in this example, the deductions to be taken into account for 1954 in computing unrelated business taxable income would be two-fifths of the total of the deductions of $20,000, that is $8,000.

§ 1.514(b) Statutory provisions; unrelated debt-financed income; definition of debt-financed property.

SEC. 514 *Unrelated debt-financed income.*

* * *

(b) *Definition of debt-financed property*—(1) *In general.* For purposes of this section, the term "debt-financed property" means any property which is held to produce income and with respect to which there is an acquisition indebtedness (as defined in subsection (c)) at any time during the taxable year (or, if the property was disposed of during the taxable year, with respect to which there was an acquisition indebtedness at any time during the 12-month period ending with the date of such disposition), except that such term does not include—

(A) (i) Any property substantially all the use of which is substantially related (aside from the need of the organization for income or funds) to the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under section 501 (or, in the case of an organization described in section 511(a)(2)(B), to the exercise or performance of any purpose or function designated in section 501(c)(3)), or (ii) any property to which clause (i) does not apply, to the extent that its use is so substantially related;

(B) Except in the case of income excluded under section 512(b)(5), any property to the extent that the income from such property is taken into account in computing the gross income of any unrelated trade or business;

(C) Any property to the extent that the income from property is excluded by reason of the provisions of paragraph (7), (8), or (9) of section 512(b) in computing the gross income of any unrelated trade or business; or

(D) Any property to the extent that it is used in any trade or business described in paragraph (1), (2), or (3) of section 513(a).

For purposes of subparagraph (A), substantially all the use of a property shall be considered to be substantially related to the exercise or performance by an organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under section 501 if such property is real property subject to a lease to a medical clinic entered into primarily for purposes which are substantially related (aside from the need of such organization for income or funds or the use it makes of the rents derived) to the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under section 501.

(2) *Special rule for related uses.* For purposes of applying paragraphs (1) (A), (C), and (D), the use of any property by an exempt organization which is related to an organization shall be treated as use by such organization.

(3) *Special rules when land is acquired for exempt use within 10 years*—

(A) *Neighborhood land.* If an organization acquires real property for the principal purpose of using the land (commencing within 10 years of the time of acquisition) in the manner described in paragraph (1)(A) and at the time of acquisition the property is in the neighborhood of other property owned by the organization which is used in such manner, the real property acquired for such future use shall not be treated as debt-financed property so long as the organization does not abandon its intent to so use the land within the 10-year period. The preceding sentence shall not apply for any period after the expiration of the 10-year period and shall apply after the first 5 years of the 10-year period only if the organization establishes to the satisfaction of the Secretary or his delegate that it is reasonably certain that the land will be used in the described manner before the expiration of the 10-year period.

(B) *Other cases.* If the first sentence of subparagraph (A) is inapplicable only because—

(i) The acquired land is not in the neighborhood referred to in subparagraph (A), or

(ii) The organization (for the period after the first 5 years of the 10-year period) is unable to establish to the satisfaction of the Secretary or his delegate that it is reasonably certain that the land will be used in the manner described in paragraph (1)(A) before the expiration of the 10-year period,

but the land is converted to such use by the organization within the 10-year period, the real property (subject to the provisions of subparagraph (D)) shall not be treated as debt-financed property for any period before such conversion. For purposes of this subparargaph, land shall not be treated as used in the manner described in parargaph (1)(A) by reason of the use made of any structure which was on the land when acquired by the organization.

(C) *Limitations.* Subparagraphs (A) and (B)—

(i) Shall apply with respect to any structure on the land when acquired by the organization, or to the land occupied by the structure, only if (and so long as) the intended future use of the land in the manner described in paragraph (1)(A) requires that the structure be demolished or removed in order to use the land in such manner;

(ii) Shall not apply to structures erected on the land after the acquisition of the land; and

(iii) Shall not apply to property subject to a lease which is a business lease (as defined in subsection (f)).

(D) *Refund of taxes when subparagraph (B) applies.* If an organization for any taxable year has not used land in the manner to satisfy the actual use condition of subparagraph (B) before the time prescribed by law (including extensions thereof) for filing the return for such taxable year, the tax for such year shall be computed without regard to the application of subparagraph (B), but if and when such use condition is satisfied, the provisions of subparagraph (B) shall then be applied to such taxable year. If the actual use condition of subparagraph (B) is satisfied for any taxable year after such time for filing the return, and if credit or refund of any overpayment for the taxable year resulting from the satisfaction of such use condition is prevented at the close of the taxable year in which the use condition is satisfied, by the operation of any law or rule of law (other than chapter 74, relating to closing agreements and compromises), credit or refund of such overpayment may nevertheless be allowed or made if claim therefor is filed before the expiration of 1 year after the close of the taxable year in which the use condition is satisfied. Interest on any overpayment for a taxable year resulting from the application of subparagraph (B) after the actual use condition is satisfied shall be allowed and paid at the rate of 4 percent per annum in lieu of 6 percent per annum.

(E) *Special rule for churches.* In applying this paragraph to a church or convention or association of churches, in lieu of the 10-year period referred to in subparagraphs (A) and (B) a 15-year period shall be applied, and subparagraphs (A) and (B)(ii) shall apply whether or not the acquired land meets the neighborhood test.

[Sec. 514(b) as amended by section 121(d), the Tax Reform Act 1969 (83 Stat. 543)]

§ 1.514(b)-1 Definition of debt-financed property.

(a) *In general.* For purposes of section 514 and the regulations thereunder, the term "debt-financed property" means any property which is held to produce income (e.g., rental real estate, tangible personal property, and corporate stock), and with respect to which there is an acquisition indebtedness (determined without regard to whether the property is debt-financed property) at any time during the taxable year. The term "income" is not limited to recurring income but applies as well to gains from the disposition of property. Consequently, if property held to produce income is disposed of during the taxable year, and if there was an acquisition indebtedness outstanding with respect to such property at any time during the 12-month period preceding the date of disposition (even though such period covers

more than 1 taxable year), such property is "debt-financed property". See paragraph (a) of § 1.514(a)–1 for rules determining the amount of income or gain from debt-financed property which is treated as unrelated debt-financed income.

(b) *Exceptions*—(1) *Property related to certain exempt purposes.* (i) To the extent that the use of any property is substantially related (aside from the need of the organization for income or funds or the use it makes of the profits derived) to the exercise or performance by an organization of its charitable, educational, or other purpose or function constituting its basis for exemption under section 501 (or, in the case of an organization described in section 511(a)(2)(B), to the exercise or performance of any purpose or function designated in section 501(c)(3)) such property shall not be treated as "debt-financed property". See § 1.513–1 for principles applicable in determining whether there is a substantial relationship to the exempt purpose of the organization.

(ii) If substantially all of any property is used in a manner described in subdivision (i) of this subparagraph, such property shall not be treated as "debt-financed property". In general the preceding sentence shall apply if 85 percent or more of the use of such property is devoted to the organization's exempt purpose. The extent to which property is used for a particular purpose shall be determined on the basis of all the facts and circumstances. These may include (where appropriate)—

(*a*) A comparison of the portion of time such property is used for exempt purposes with the total time such property is used,

(*b*) A comparison of the portion of such property that is used for exempt purposes with the portion of such property that is used for all purposes, or

(*c*) Both the comparisons described in (*a*) and (*b*) of this subdivision.

(iii) This subparagraph may be illustrated by the following examples. For purposes of these examples it is assumed that the indebtedness is acquisition indebtedness.

Example (1). W, an exempt organization, owns a computer with respect to which there is an outsanding principal indebtedness and which is used by W in the performance of its exempt purpose. W sells time for the use of the computer to M corporation on occasions when the computer is not in full-time use by W. W uses the computer in furtherance of its exempt purpose more than 85 percent of the time it is in use and M uses the computer less than 15 percent of the total operating time the computer is in use. In this situation, substantially all the use of the computer is related to the performance of W's exempt purpose. Therefore, no portion of the computer is treated as debt-financed property.

Example (2). X, an exempt college, owns a four story office building which has been purchased with borrowed funds. In 1971, the lower two stories of the building are used to house computers which are used by X for administrative purposes. The top two stories are rented to the public for purposes not described in section 514(b)(1) (A), (B), (C), or (D). The gross income derived by X from the building is $6,000, all of which is attributable to the rents paid by tenants. There are $2,000 of expenses, allocable equally to each use of the building. The average adjusted basis of the building for 1971 is $100,000, and the outstanding principal indebtedness throughout 1971 is $60,000. Thus, the average acquisition indebtedness for 1970 is $60,000. In accordance with subdivision (i) of this subparagraph, only the upper half of the building is debt-financed property. Consequently, only the rental income and the deductions directly connected with such income are to be taken into account in computing unrelated business taxable income. The portion of such amounts to be taken into account is determined by multiplying the $6,000 of rental income and $1,000 of deductions directly connected with such rental income by the debt/basis percentage. The debt/basis percentage is the ratio which the allocable part of the average acquisition indebtedness is of the allocable part of the average adjusted basis of the property, that is, the ratio which $30,000 (one-half of $60,000) bears to $50,000 (one-half of $100,000). Thus, the debt/basis percentage for 1971 is 60 percent (the ratio of $30,000 to $50,000). Under these circumstances, X shall include net rental income of $3,000 in its unrelated business taxable income for 1971, computed as follows:

Total rental income	$6,000	
Deductions directly connected with rental income	$1,000	
Debt/basis percentage ($30,000/$50,000)		60 percent
Rental income treated as gross income from an unrelated trade or business (60 percent of $6,000)	$3,000	
Less the allowable portion of deductions directly connected with such income (60 percent of $1,000)	$600	
Net rental income included by X in computing its unrelated business taxable income	$3,000	

Example (3). Assume the facts as stated in example (2) except that on December 31, 1971, X sells the building and realizes a long-term capital gain of $10,000. This is X's only capital transaction for 1971. An allocable portion of this gain is subject to tax. This amount is determined by multiplying the gain related to the nonexempt use, $5,000 (one-half of $10,000), by the ratio which the allocable part of the highest acquisition indebtedness for the 12-month period preceding the date of sale, $30,000 (one-half of $60,000), is of the allocable part of the average adjusted basis, $50,000 (one-half of $100,000). Thus, the debt/basis percentage with respect to computing the gain (or loss) derived from the sale of the building is 60 percent (the ratio of $30,000 to $50,000). Consequently, $3,000 (60 percent of $5,000) is a net section 1201 gain. The portion of such gain which is taxable shall be determined in accordance with rules contained in subchapter P, chapter 1 of the Code (relating to capital gains and losses). See also section 511(d) and the regulations thereunder (relating to the minimum tax for tax preferences).

(2) *Property used in an unrelated trade or business*—(i) *In general.* To the extent that the gross income from any property is treated as income from the conduct of an unrelated trade or business, such property shall not be treated as "debt-financed property". However, any gain on the disposition of such property which is not included in the income of an unrelated trade or business by reason of section 512(b)(5) is includible as gross income derived "from or on account of debt-financed property" under paragraph (a)(1) of § 1.514(a)–1.

(ii) *Amounts specifically taxable under other provisions of the Code.* Section 514 does not apply to amounts which are otherwise included in the computation of unrelated business taxable income, such as rents and interest from controlled organizations includible pursuant to section 512(b)(15). See paragraph (l)(5) of § 1.512(b)–1 for the rules applicable when amounts are not excluded from unrelated business taxable income pursuant to section 512(a)(1) by operation of section 512(b)(15).

(3) *Examples.* Subparagraphs (1) and (2) of this paragraph may be illustrated by the following examples. For purposes of these examples it is assumed that the property is not used in a manner described in section 514(b)(1) (C) or (D) and that the indebtedness is acquisition indebtedness.

Example (1). X, an exempt scientific organization, owns a 10-story office building. During 1972, four stories are occupied by X's administrative offices, and the remaining six stories are rented to the public for purposes not described in section 514(b)(1) (A), (B), (C), or (D). On December 31, 1972, the building is sold and X realizes a long-term capital gain of $100,000. This is X's only capital transaction for 1972. The debt/basis percentage with respect to computing the gain (or loss) derived from the sale of the building is 30 percent. Since 40 percent of the building was used for X's exempt purpose, only 60 percent of the building is debt-financed property. Thus, only $60,000 of the gain (60 percent of $100,000) is subject to this section. Consequently, the amount of gain treated as unrelated debt-financed income is $18,000 ($60,000 multiplied by the debt/basis percentage of 30 percent). The portion of such $18,000 which is taxable shall be determined in accordance with the rules contained in subchapter P, chapter 1 of the Code. See also section 511(d) and the regulations thereunder (relating to the minimum tax for tax preferences).

Example (2). Y, an exempt organization, owns two properties, a restaurant and an office building. In 1972, all the space in the office building, except for the portion utilized by Y to house the administrative offices of the restaurant, is rented to the public for purposes not described in section 514(b)(1) (A), (B), (C), or (D). The average adjusted basis of the office building for 1972 is $2 million. The outstanding principal indebtedness throughout 1972 is $1 million. Thus, the highest acquisition indebtedness in the calendar year of 1972 is $1 million. It is determined that 30 percent of the space in the office building is used for the administrative functions engaged in by the employees of the organization with respect to the restaurant. Since the income attributable to the restaurant is attributable to the conduct of an unrelated trade or business, only 70 percent of the building is treated as debt-financed property for purposes of determining the portion of the rental income which is unrelated debt-financed income. On December 31, 1972, the office building is sold and Y realizes a long-term capital gain of $250,000. This is Y's only capital transaction for 1972. In accordance with subparagraph (2)(i) of this paragraph, all the gain derived from this sale is taken into account in computing the amount of such gain subject to

tax. The portion of such gain which is taxable is determined by multiplying the $250,000 gain by the debt/basis percentage. The debt/basis percentage is the ratio which the highest acquisition indebtedness for the 12-month period preceding the date of sale, $1 million, is of the average adjusted basis, $2 million. Thus, the debt/basis percentage with respect to computing the gain (or loss) derived from the sale of the building is 50 percent (the ratio of $1 million to $2 million). Consequently, $125,000 (50 percent of $250,000) is a net section 1201 gain. The amount of such gain which is taxable shall be determined in accordance with the rules contained in subchapter P, chapter 1 of the Code. See also section 511(d) and the regulations thereunder.

Example (3). (a) Z, an exempt university, owns all the stock of M, a nonexempt corporation. During 1971 M leases from Z University a factory unrelated to Z's exempt purpose and a dormitory for the students of Z, for a total annual rent of $100,000: $80,000 for the factory and $20,000 for the dormitory. During 1971, M has $500,000 of taxable income, disregarding the rent paid of Z, for a total annual rent of $100,000; $350,000 from the factory. The factory is subject to a mortgage of $150,000. Its average adjusted basis for 1971 is determined to be $300,000. Z's deductions for 1971 with respect to the leased property are $4,000 for the dormitory and $16,000 for the factory. In accordance with subdivision (ii) of this subparagraph, section 514 applies only to that portion of the rent which is excluded from the computation of unrelated business taxable income by operation of section 512(b)(3) and not included in such computation pursuant to section 512(b)(15). Since all the rent received by Z is derived from real property, section 512(b)(3) would exclude all such rent from computation of Z's unrelated business taxable income. However, 70 percent of the rent paid to Z with respect to the factory and 70 percent of the deductions directly connected with such rent shall be taken into account by Z in determining its unrelated business taxable income pursuant to section 512(b)(15), computed as follows:

M's taxable income (disregarding rent paid to Z)	$500,000
Less taxable income from dormitory	$150,000
Excess taxable income	$350,000
Ratio ($350,000/$500,000)	7/10
Total rent paid to Z	$100,000
Total deductions ($4,000+$16,000)	$ 20,000
Rental income treated under section 512(b)(15) as gross income from an unrelated trade or business (7/10 of $100,000)	$70,000
Less deductions directly connected with such income (7/10 of $20,000)	$14,000
Net rental income included by Z in computing its unrelated business taxable income pursuant to section 512(b)(15)	$56,000

(b) Since only that portion of the rent derived from the factory and the deductions directly connected with such rent not taken into account pursuant to section 512(b)(15) may be included in computing unrelated business taxable income by operation of section 514, only $10,000 ($80,000 minus $70,000) of rent and $2,000 ($16,000 minus $14,000) of deductions are so taken into account. The portion of such amounts to be taken into account is determined by multiplying the $10,000 of income and $2,000 of deductions by the debt/basis percentage. The debt/basis percentage is the ratio which the average acquisition indebtedness ($150,000) is of the average adjusted basis of the property ($300,000). Thus, the debt/basis percentage for 1971 is 50 percent (the ratio of $150,000 to $300,000). Under these circumstances, Z shall include net rental income of $4,000 in its unrelated business taxable income for 1971, computed as follows:

Total rents	$10,000
Deductions directly connected with such rents	$2,000
Debt/basis percentage ($150,000/$300,000)	50 percent
Rental income treated as gross income from an unrelated trade or business (50 percent of $10,000)	$5,000
Less the allowable portion of deductions directly connected with such income (50 percent of $2,000)	$1,000
Net rental income included by Z in computing its unrelated business taxable income pursuant to section 514	$4,000

(4) *Property related to research activities.* To the extent that the gross income from any property is derived from research activities excluded from the tax on unrelated business income by paragraph (7), (8), or (9) of section 512(b), such property shall not be treated as "debt-financed property".

(5) *Property used in "thrift shops", etc.* To the extent that property is used in any trade or business which is excepted from the definition of "unrelated trade or business" by paragraph (1), (2), or (3) of section 513(a), such property shall not be treated as "debt-financed property".

(c) *Special rules*—(1) *Medical clinic.* Property is not debt-financed property if it is real property subject to a lease to a medical clinic, and the lease is entered into primarily for purposes which are substantially related (aside from the need of such organization for income or funds or the use it makes of the rents derived) to the exercise or performance by the lessor of its charitable, educational, or other purpose or function constituting the basis for its exemption under section 501. For example, assume that an exempt hospital leases all of its clinic space to an unincorporated association of physicians and surgeons who, by the provisions of the lease, agree to provide all of the hospital's out-patient medical and surgical services and to train all of the hospital's residents and interns. In this situation, the rents received by the hospital from this clinic are not to be treated as unrelated debt-financed income.

(2) *Related exempt uses*—(i) *In general.*—Property owned by an exempt organization and used by a related exempt organization shall not be treated as "debt-financed property" to the extent it is used by the related exempt organization in the performance of the purpose constituting the basis for its exemption under section 501. Furthermore, property shall not be debt-financed property to the extent such property is used by a related exempt organization for a purpose described in paragraph (b) (4) or (5) of this section.

(ii) *Related organizations.* For purposes of subdivision (i) of this subparagraph, an exempt organization is related to another exempt organization only if—

(a) One organization is an exempt holding company described in section 501(c)(2) and the other organization receives the profits derived by such exempt holding company, or

(b) One organization has control of the other organization within the meaning of paragraph (l)(4) of § 1.512(b)-1.

(iii) *Example.* This subparagraph may be illustrated by the following example. For purposes of this example it is assumed that the indebtedness is acquisition indebtedness.

Example. M, a holding company described in section 501(c)(2), pays over all its profits to N, an exempt voluntary employees' beneficiary association described in section 501(c)(9). M holds title to a building which was acquired with borrowed funds. The entire building is leased by N for performance of its exempt purpose. In this situation, no portion of the building is treated as debt-financed property.

(3) *Life income contracts.* (i) If an individual transfers property to a trust or a fund subject to a contract providing that the income is to be paid to him or to another individual or both for a period of time in a transaction in which the payments to the individual do not constitute the proceeds of a sale or exchange of the property so transferred, and if the remainder interest is payable to an exempt organization described in section 501(c)(3), the property shall not be treated as "debt-financed property" by reason of the life income contract.

(ii) Subdivision (i) of this subparagraph is illustrated by the following example.

Example. On January 1, 1967, A transfers property to X, an exempt organization described in section 501(c)(3), which immediately places the property in a fund. On January 1, 1971, A transfers additional property to X, which property is also placed in the fund. In exchange for each transfer, A receives income participation fund certificates which entitle him to a proportionate part of the fund's income for his life and for the life of another individual. None of the payments made by X are treated by the recipients as the proceeds of a sale or exchange of the property transferred. In this situation, none of the property received by X from A is treated as debt-financed property.

(d) *Property acquired for prospective exempt use*—(1) *Neighborhood land*—(i) *In general.* If an organization acquires real property for the principal purpose of using the land in the exercise or performance of its exempt purpose, commencing within 10 years of the time of acquisition, such property will not be treated as debt-financed property, so long as (a) such property is in the neighborhood of other property owned by the organization which is used in the performance of its exempt purpose, and (b) the organization does not abandon

its intent to use the land in such a manner within the 10-year period. The rule expressed in this subdivision is hereinafter referred to as the "neighborhood land rule".

(ii) *"Neighborhood" defined.* Property shall be considered in the "neighborhood" of property owned and used by the organization in the performance of its exempt purpose if the acquired property is contiguous with the exempt purpose property or would be contiguous with such property except for the interposition of a road, street, railroad, stream, or similar property. If the acquired property is not contiguous with exempt function property, it may still be in the "neighborhood" of such property, but only if it is within 1 mile of such property and the facts and circumstances of the particular situation make the acquisition of contiguous property unreasonable. Some of the criteria to consider in determining this question include the availability of land and the intended future use of the land. For example, a university attempts to purchase land contiguous to its present campus but cannot do so because the owners either refuse to sell or ask unreasonable prices. The nearest land of sufficient size and utility is a block away from the campus. The university purchases such land. Under these circumstances, the contiguity requirement is unreasonable and the land purchased would be considered "neighborhood land".

(iii) *Exception.* The neighborhood land rule shall not apply to any property after the expiration of 10 years from the date of acquisition. Further, the neighborhood land rule shall apply after the first 5 years of the 10-year period only if the organization establishes to the satisfaction of the Commissioner that future use of the acquired land in furtherance of the organization's exempt purpose before the expiration of the 10-year period is reasonably certain. In order to satisfy the Commissioner, the organization does not necessarily have to show binding contracts. However, it must at least have a definite plan detailing a specific improvement and a completion date, and some affirmative action toward the fulfillment of such a plan. This information shall be forwarded to the Commissioner of Internal Revenue, Washington, D.C. 20224, for a ruling at least 90 days before the end of the fifth year after acquisition of the land.

(2) *Actual use.* If the neighborhood land rule is inapplicable because—

(i) The acquired land is not in the neighborhood of other property used by the organization in performance of its exempt purpose, or

(ii) The organization (for the period after the first 5 years of the 10-year period) is unable to establish to the satisfaction of the Commissioner that the use of the acquired land for its exempt purposes within the 10-year period is reasonably certain,

but the land is actually used by the organization in furtherance of its exempt purpose within the 10-year period, such property (subject to the provisions of subparagraph (4) of this paragraph) shall not be treated as debt-financed property for any period prior to such conversion.

(3) *Limitations*—(i) *Demolition or removal required.* (*a*) Subparagraph (1) and (2) of this paragraph shall apply with respect to any structure on the land when acquired by the organization, or to the land occupied by the structure, only so long as the intended future use of the land in furtherance of the organization's exempt purpose requires that the structure be demolished or removed in order to use the land in such a manner. Thus, during the first 5 years after acquisition (and for subsequent years if there is a favorable ruling in accordance with subparagraph (1)(iii) of this paragraph) improved property is not debt-financed so long as the organization does not abandon its intent to demolish the existing structures and use the land in furtherance of its exempt purpose. Furthermore, if there is an actual demolition of such structures, the use made of the land need not be the one originally intended. Therefore, the actual use requirement of this subdivision may be satisfied by using the land in any manner which furthers the exempt purpose of the organization.

(*b*) Subdivision (i)(*a*) of this subparagraph may be illustrated by the following examples. For purposes of the following examples it is assumed that but for the application of the neighborhood land rule such property would be debt-financed property.

Example (1). An exempt university acquires a contiguous tract of land on which there is an apartment building. The university intends to demolish the apartment building and build classrooms and does not abandon this intent during the first 4 years after acquisition. In the fifth year after acquisition it abandons the intent to demolish and sells the apartment building. Under these circumstances, such property is not debt-financed property for the first 4 years after acquisition even though there was no eventual demolition or use made of such land in furtherance of the university's exempt purpose. However, such property is debt-financed property as of the time in the fifth year that the intent to demolish the building is abandoned and any gain on the sale of the property is subject to section 514.

Example (2). Assume the facts as stated in example (1) except that the university did not abandon its intent to demolish the existing building and construct a classroom building until the eighth year after acquisition when it sells the property. Assume further that the university did not receive a favorable ruling in accordance with subparagraph (1)(iii) of this paragraph. Under these circumstances, the building is debt-financed property for the sixth, seventh, and eighth years. It is not, however, treated as debt-financed property for the first 5 years after acquisition.

Example (3). Assume the facts as stated in Example (2) except that the university received a favorable ruling in accordance with subparagraph (1)(iii) of this paragraph. Under these circumstances, the building is not debt-financed property for the first 7 years after acquisition. It only becomes debt-financed property as of the time in the eighth year when the university abandoned its intent to demolish the existing structure.

Example (4). (*1*) Assume that a university acquires an office building for the principal purpose of demolishing the office building and building a modern dormitory. Five years later the dormitory has not been constructed, and the university has failed to satisfy the Commissioner that the office building will be demolished and the land will be used in furtherance of its exempt purpose (and consequently has failed to obtain a favorable ruling under subparagraph (1)(iii) of this paragraph). In the ninth taxable year after acquisition the university converts the office building into an administration building. Under these circumstances, during the sixth, seventh, and eighth years after acquisition, the office building is treated as debt-financed property because the office building was not demolished or removed. Therefore, the income derived from such property during these years shall be subject to the tax on unrelated business taxable income.

(*2*) Assume that instead of converting the office building to an administration building, the university demolishes the office building in the ninth taxable year after acquisition and then constructs a new administration building. Under these circumstances, the land would not be considered debt-financed property for any period following the acquisition, and the university would be entitled to a refund of taxes paid on the income derived from such property for the sixth through eighth taxable years after the acquisition in accordance with subparagraph (4) of this paragraph.

(ii) *Subsequent construction.* Subparagraphs (1) and (2) of this paragraph do not apply to structures erected on the land after the acquisition of the land.

(iii) *Property subject to business lease.* Subparagraphs (1) and (2) of this paragraph do not apply to property subject to a lease which is a business lease (as defined in § 1.514(f)–1) whether the organization acquired the property subject to the lease or whether it executed the lease subsequent to acquisition. If only a portion of the real property is subject to a lease, paragraph (c) of § 1.514(f)–1 applies in determining whether such lease is a business lease.

(4) *Refund of taxes.* (i) If an organization has not satisfied the actual use condition of subparagraph (2) of this paragraph or paragraph (e)(3) of this section before the date prescribed by law (including extensions) for filing the return for the taxable year, the tax for such year shall be computed without regard to the application of such actual use condition. However, if—

(*a*) A credit or refund of any overpayment of taxes is allowable for a prior taxable year as a result of the satisfaction of such actual use condition, and

(*b*) Such credit or refund is prevented by the operation of any law or rule of law (other than chapter 74, relating to closing agreements and compromises),

such credit or refund may nevertheless be allowed or made, if a claim is filed within 1 year after the close of the taxable year in which such actual use condition is satisfied. Interest on any overpayment for a taxable year resulting from the application of subparagraph

(2) of this paragraph or paragraph (e) (3) of this section shall be allowed and paid at the rate of 4 percent per annum in lieu of 6 percent per annum.

(ii) This subparagraph may be illustrated by the following example. For purposes of this example it is assumed that but for the neighborhood land rule such property would be debt-financed property.

Example. Y, a calendar year exempt organization, acquires real property in January 1970 but does not satisfy the Commissioner by January 1975, that the existing structure will be demolished and the land will be used in furtherance of its exempt purpose. In accordance with this subparagraph, from 1975 until the property is converted to an exempt use, the income derived from such property shall be subject to the tax on unrelated business income. During July 1979, Y demolishes the existing structure on the land and begins using the land in furtherance of its exempt purpose. At this time Y may file claims for refund for the open years 1976 through 1978. Further, in accordance with this subparagraph, Y may also file a claim for refund for 1975, even though a claim for such taxable year may be barred by the statute of limitations, provided such claim is filed before the close of 1980.

(e) *Churches*—(1) *In general.* If a church or association or convention of churches acquires real property, for the principal purpose of using the land in the exercise or performance of its exempt purpose, commencing within 15 years of the time of acquisition, such property shall not be treated as debt-financed property so long as the organization does not abandon its intent to use the land in such a manner within the 15-year period.

(2) *Exception.* This paragraph shall not apply to any property after the expiration of the 15-year period. Further, this paragraph shall apply after the first 5 years of the 15-year period only if the church or association or convention of churches establishes to the satisfaction of the Commissioner that use of the acquired land in furtherance of the organization's exempt purpose before the expiration of the 15-year period is reasonably certain. For purposes of the preceding sentence, the rules contained in paragraph (d)(1)(iii) of this section with respect to satisfying the Commissioner that the exempt organization intends to use the land within the prescribed time in furtherance if its exempt purpose shall apply.

(3) *Actual use.* If the church or association or convention of churches for the period after the first 5 years of the 15-year period is unable to establish to the satisfaction of the Commissioner that the use of the acquired land for its exempt purpose within the 15-year period is reasonably certain, but such land is in fact converted to an exempt use within the 15-year period, the land (subject to the provisions of paragraph (d)(4) of this section) shall not be treated as debt-financed property for any period prior to such conversion.

(4) *Limitations.* The limitations stated in paragraph (d)(3) (i) and (ii) of this section shall similarly apply to the rules contained in this paragraph.

§ 1.514(c) Statutory provisions; unrelated debt-financed income; acquisition indebtedness.

SEC. 514. *Unrelated debt-financed income.*

* * * * *

(c) *Acquisition indebtedness*—(1) *General rule.* For purposes of this section, the term "acquisition indebtedness" means, with respect to any debt-financed property, the unpaid amount of—

(A) The indebtedness incurred by the organization in acquiring or improving such property;

(B) The indebtedness incurred before the acquisition or improvement of such property if such indebtedness would not have been incurred but for such acquisition or improvement; and

(C) The indebtedness incurred after the acquisition or improvement of such property if such indebtedness would not have been incurred but for such acquisition or improvement and the incurrence of such indebtedness was reasonably foreseeable at the time of such acquisition or improvement.

except that in the case of any taxable year beginning before January 1, 1972, any indebtedness incurred before June 28, 1966, shall not be taken into account. In the case of an organization (other than a church or convention or association of churches) such indebtedness incurred before June 28, 1966, shall be taken into account if such indebtedness constitutes business lease indebtedness (as defined in subsection (g)).

(2) *Property acquired subject to mortgage, etc.* For purposes of this subsection—

(A) *General rule.* Where property (no matter how acquired) is acquired subject to a mortgage or other similar lien, the amount of the indebtedness secured by such mortgage or lien shall be considered as an indebtedness of the organization incurred in acquiring such property even though the organization did not assume or agree to pay such indebtedness.

(B) *Exceptions.* Where property subject to a mortgage is acquired by an organization by bequest or devise, the indebtedness secured by the mortgage shall not be treated as acquisition indebtedness during a period of 10 years following the date of the acquisition. If an organization acquires property by gift subject to a mortgage which was placed on the property more than 5 years before the gift, which property was held by the donor more than 5 years before the gift, the indebtedness secured by such mortgage shall not be treated as acquisition indebtedness during a period of 10 years following the date of such gift. This subparagraph shall not apply if the organization, in order to acquire the equity in the property by bequest, devise, or gift, assumes and agrees to pay the indebtedness secured by the mortgage, or if the organization makes any payment for the equity in the property owned by the decedent or the donor.

(3) *Extension of obligations.* For purposes of this section, an extension, renewal or refinancing of an obligation evidencing a preexisting indebtedness shall not be treated as the creation of a new indebtedness.

(4) *Indebtedness incurred in performing exempt purpose.* For purposes of this section, the term "acquisition indebtedness" does not include indebtedness the incurrence of which is inherent in the performance or exercise of the purpose or function constituting the basis of the organization's exemption, such as the indebtedness incurred by a credit union described in section 501(c)(14) in accepting deposits from its members.

(5) *Annuities.* For purposes of this section, the term "acquisition indebtedness" does not include an obligation to pay an annuity which—

(A) Is the sole consideration (other than a mortgage to which paragraph (2)(B) applies) issued in exchange for property if, at the time of the exchange, the value of the annuity is less than 90 percent of the value of the property received in the exchange,

(B) Is payable over the life of one individual in being at the time the annuity is issued, or over the lives of two individuals in being at such time, and

(C) Is payable under a contract which—

(i) Does not guarantee a minimum amount of payments or specify a maximum amount of payments, and

(ii) Does not provide for any adjustment of the amount of the annuity payments by reference to the income received from the transferred property or any other property.

(6) *Certain federal financing.* For purposes of this section, the term "acquisition indebtedness" does not include an obligation, to the extent that it is insured by the Federal Housing Administration, to finance the purchase, rehabilitation, or construction of housing for low and moderate income persons.

(7) *Average acquisition indebtedness.* For purposes of this section, the term "average acquisition indebtedness" for any taxable year with respect to a debt-financed property means the average amount, determined under regulations prescribed by the Secretary or his delegate, of the acquisition indebtedness during the period the property is held by the organization during the taxable year except that for the purpose of computing the percentage of any gain or loss to be taken into account on a sale or other disposition of debt-financed property, such term means the highest amount of the acquisition indebtedness with respect to such property during the 12-month period ending with the date of the sale or other disposition.

[Sec. 514(c) as amended by sec. 121(d), Tax Reform Act of 1969 (83 Stat. 545)]

§ 1.514(c)–1 Acquisition indebtedness.

(a) *In general*—(1) *Definition of acquisition indebtedness.* For purposes of section 514 and the regulations thereunder, the term "acquisition indebtedness" means, with respect to any debt-financed property, the outstanding amount of—

(i) The principal indebtedness incurred by the organizaton in acquiring or improving such property;

(ii) The principal indebtedness incurred before the acquisition or improvement of such property if such indebtedness would not have been incurred but for such acquisition or improvement; and

(iii) The principal indebtedness incurred after the acquisition or improvement of such property if such indebtedness would not have been incurred but for such acquisition or improvement and the incurrence of such indebtedness was reasonably foreseeable at the time of such acquisition or improvement.

Whether the incurrence of an indebtedness is reasonably foreseeable depends upon the facts and circumstances of each situation. The fact that an organization

did not actually foresee the need for the incurrence of an indebtedness prior to the acquisition or improvement does not necessarily mean that the subsequent incurrence of indebtedness was not reasonably foreseeable.

(2) *Examples.* The application of subparagraph (1) of this paragraph may be illustrated by the following examples:

Example (1). X, an exempt organization, pledges some of its investment securities with a bank for a loan and uses the proceeds of such loan to purchase an office building which it leases to the public for purposes other than those described in section 514(b)(1) (A), (B), (C), or (D). The outstanding principal indebtedness with respect to the loan constitutes acquisition indebtedness incurred prior to the acquisition which would not have been incurred but for such acquisition.

Example (2). Y, an exempt scientific organization, mortgages its laboratory to replace working capital used in remodeling an office building which Y rents to an insurance company for purposes not described in section 514(b)(1) (A), (B), (C), or (D). The indebtedness is "acquisition indebtedness" since such indebtedness, though incurred subsequent to the improvement of the office building, would not have been incurred but for such improvement, and the indebtedness was reasonably foreseeable when, to make such improvement, Y reduced its working capital below the amount necessary to continue current operations.

Example (3). (*a*) U, an exempt private preparatory school, as its sole educational facility owns a classroom building which no longer meets the needs of U's students. In 1971, U sells this building for $3 million to Y, a corporation which it does not control. U receives $1 million as a down payment from Y and takes back a purchase money mortage of $2 million which bears interest at 10 percent per annum. At the time U became the mortgagee of the $2 million purchase money mortgage, U realized that it would have to construct a new classroom building and knew that it would have to incur an indebtedness in the construction of the new classroom building. In 1972, U builds a new classroom building for a cost of $4 million. In connection with the construction of this building, U borrows $2.5 million from X Bank pursuant to a deed of trust bearing interest at 6 percent per annum. Under these circumstances, $2 million of the $2.5 million borrowed to finance construction of the new classroom building would not have been borrowed but for the retention of the $2 million purchase money mortgage. Since such indebtedness was reasonably foreseeable, $2 million of the $2.5 million borrowed to finance the construction of the new classroom building is acquisition indebtedness with respect to the purchase money mortgage and the purchase money mortgage is debt-financed property.

(*b*) In 1972, U receives $200,000 in interest from Y (10 percent of $2 million) and makes a $150,000 interest payment to X (6 percent of $2.5 million). In addition, assume that for 1972 the debt/basis percentage is 100 percent ($2 million/$2 million). Accordingly, all the interest and all the deductions directly connected with such interest income are to be taken into account in computing unrelated business taxable income. Thus, $200,000 of interest income and $120,000 of deductions directly connected with such interest income (6 percent of the $2 million of the deed of trust treated as acquisition indebtedness) are taken into account. Under these circumstances, U shall include net interest income of $80,000 ($200,000 of income less $120,000 of deductions directly connected with such income) in its unrelated business taxable income for 1971.

(3) *Changes in use of property.* Since property used in a manner described in section 514(b)(1) (A), (B), (C), or (D) is not considered debt-financed property, indebtedness with respect to such property is not acquisition indebtedness. However, if an organization converts such property to a use which is not described in section 514(b)(1) (A), (B), (C), or (D) and such property is otherwise treated as debt-financed property, the outstanding principal indebtedness with respect to such property will thereafter be treated as "acquisition indebtedness". For example, assume that in 1971 a university borrows funds to acquire an apartment building as housing for married students. In 1974 the university rents the apartment building to the public for purposes not described in section 514(b)(1) (A), (B), (C), or (D). The outstanding principal indebtedness is "acquisition indebtedness" as of the time in 1974 when the building is first rented to the public.

(4) *Continued indebtedness.* If—

(i) An organization sells or exchanges property, subject to an indebtedness (incurred in a manner described in subparagraph (1) of this paragraph),

(ii) Acquires another property without retiring the indebtedness, and

(iii) The newly acquired property is otherwise treated as debt-financed property,

the outstanding principal indebtedness with respect to the acquired property is "acquisition indebtedness", even though the original property was not debt-financed property. For example, to house its administrative offices, an exempt organization purchases a building with $600,000 of its own funds and $400,000 of borrowed funds secured by a pledge of its securities. It later sells the building for $1,000,000 without redeeming the pledge. It uses these proceeds to purchase an apartment building which it rents to the public for purposes not described in section 514(b)(1) (A), (B), (C), or (D). The indebtedness of $400,000 is "acquisition indebtedness" with respect to the apartment building even though the office building was not debt-financed property.

(5) *Indebtedness incurred before June 28, 1966.* For taxable years beginning before January 1, 1972, "acquisition indebtedness" does not include any indebtedness incurred before June 28, 1966, unless such indebtedness was incurred on rental real property subject to a business lease and such indebtedness constituted business lease indebtedness. However, in respect to a church or convention or association of churches, "acquisition indebtedness" does not include any indebtedness incurred before June 28, 1966.

(b) *Property acquired subject to lien*—(1) *Mortgages.* Except as provided in subparagraphs (3) and (4) of this paragraph, whenever property is acquired subject to a mortgage, the amount of the outstanding principal indebtedness secured by such mortgage is treated as "acquisition indebtedness" with respect to such property even though the organization did not assume or agree to pay such indebtedness. The preceding sentence applies whether property is acquired by purchase, gift, devise, bequest, or any other means. Thus, for example, assume that an exempt organization pays $50,000 for real property valued at $150,000 and subject to a $100,000 mortgage. The $100,000 of outstanding principal indebtedness is "acquisition indebtedness" just as though the organization had borrowed $100,000 to buy the property.

(2) *Other liens.* For purposes of this paragraph, liens similar to mortgages shall be treated as mortgages. A lien is similar to a mortgage if title to property is encumbered by the lien for the benefit of a creditor. Such liens include (but are not limited to):

(i) Deeds of trust,

(ii) Conditional sales contracts,

(iii) Chattel mortgages,

(iv) Security interests under the Uniform Commercial Code,

(v) Pledges, and

(vi) Agreements to hold title in escrow.

(3) *Certain encumbered property acquired by gift, bequest or devise*—(i) *Bequest or devise.* Where property subject to a mortgage is acquired by an organization by bequest or devise, the outstanding principal indebtedness secured by such mortgage is not to be treated as "acquisition indebtedness" during the 10-year period following the date of acquisition. For purposes of the preceding sentence, the date of acquisition is the date the organization receives the property.

(ii) *Gifts.* If an organization acquires property by gift subject to a mortgage, the outstanding principal indebtedness secured by such mortgage shall not be treated as "acquisition indebtedness" during the 10-year period following the date of such gift, so long as—

(*a*) The mortgage was placed on the property more than 5 years before the date of the gift.

(*b*) The property was held by the donor for more than 5 years before the date of the gift.

For purposes of the preceding sentence, the date of the gift is the date the organization receives the property.

(iii) *Limitation.* Subdivisions (i) and (ii) of this subparagraph shall not apply if—

(*a*) The organization assumes and agrees to pay all or any part of the indebtedness secured by the mortgage, or

(*b*) The organization makes any payment for the equity owned by the decedent or the donor in the property (other than a payment pursuant to an annuity excluded from the definition of "acquisition indebtedness" by paragraph (e) of this section).

Whether an organization has assumed and agreed to pay all or any part of an indebtedness in order to acquire the property shall be determined by the

facts and circumstances of each situation.

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

Example (1). A dies on January 1, 1971. His will devises an office building subject to a mortgage to U, an exempt organization described in section 501(c)(3). U does not at any time assume the mortgage. For the period 1971 through 1980, the outstanding principal indebtedness secured by the mortgage is not acquisition indebtedness. However, after December 31, 1980, the outstanding principal indebtedness secured by the mortgage is acquisition indebtedness if the building is otherwise treated as debt-financed property.

Example (2). Assume the facts as stated in example (1) except that on January 1, 1975, U assumes the mortgage. After January 1, 1975, the outstanding principal indebtedness secured by the mortgage is acquisition indebtedness if the building is otherwise treated as debt-financed property.

(4) *Bargain sale before October 9, 1969.* Where property subject to a mortgage is acquired by an organization before October 9, 1969, the outstanding principal indebtedness secured by such mortgage is not to be treated as "acquisition indebtedness" during the 10-year period following the date of acquisition if—

(i) The mortgage was placed on the property more than 5 years before the purchase, and

(ii) The organization paid the seller a total amount no greater than the amount of the seller's cost (including attorney's fees) directly related to the transfer of such property to the organization, but in any event no more than 10 percent of the value of the seller's equity in the property transferred.

(c) *Extension of obligations*—(1) *In general.* An extension, renewal, or refinancing of an obligation evidencing a preexisting indebtedness is considered as a continuation of the old indebtedness to the extent the outstanding principal amount thereof is not increased. Where the principal amount of the modified obligation exceeds the outstanding principal amount of the preexisting indebtedness, the excess shall be treated as a separate indebtedness for purposes of section 514 and the regulations thereunder. For example, if the interest rate on an obligation incurred prior to June 28, 1966, by an exempt university is modified subsequent to such date, the modified obligation shall be deemed to have been incurred prior to June 28, 1966. Thus, such an indebtedness will not be treated as acquisition indebtedness for taxable years beginning before January 1, 1972, unless the original indebtedness was business lease indebtedness (as defined in § 1.514(g)-1).

(2) *Extension or renewal.* In general, any modification or substitution of the terms of an obligation by the organization shall be an extension or renewal of the original obligation, rather than the creation of a new indebtedness to the extent that the outstanding principal amount of the indebtedness is not increased. The following are examples of acts which result in the extension or renewal of an obligation:

(i) Substitution of liens to secure the obligation;

(ii) Substitution of obligees, whether or not with the consent of the organization;

(iii) Renewal, extension or acceleration of the payment terms of the obligation; and

(iv) Addition, deletion, or substitution of sureties or other primary or secondary obligors.

(3) *Allocation.* In cases where the outstanding principal amount of the modified obligation exceeds the outstanding principal amount of the unmodified obligation and only a portion of such refinanced indebtedness is to be treated as acquisition indebtedness, payments on the amount of the refinanced indebtedness shall be apportioned pro rata between the amount of the preexisting indebtedness and the excess amount. For example, assume that an organization has an outstanding principal indebtedness of $500,000 which is treated as acquisition indebtedness. It borrows another $100,000, which is not acquisition indebtedness, from the same lending institution and gives the lender a $600,000 note for its total obligation. In this situation, a payment of $60,000 on the amount of the total obligation would reduce the acquisition indebtedness by $50,000 and the excess indebtedness by $10,000.

(d) *Indebtedness incurred in performing exempt purpose.* "Acquisition indebtedness" does not include the incurrence of an indebtedness inherent in the performance or exercise of the purpose or function constituting the basis of the organization's exemption. Thus, "acquisition indebtedness" does not include the indebtedness incurred by an exempt credit union in accepting deposits from its members or the obligation incurred by an exempt organization in accepting payments from its members to provide such members with insurance, retirement or other similar benefits.

(e) *Annuities*—(1) *Requirements.* The obligation to make payment of an annuity is not "acquisition indebtedness" if the annuity meets all the following requirements—

(i) It must be the sole consideration (other than a mortgage to which paragraph (b)(3) of this section applies) issued in exchange for the property acquired;

(ii) At the time of the exchange, the present value of the annuity (determined in accordance with subparagraph (2) of this paragraph) must be less than 90 percent of the value of the prior owner's equity in the property received in the exchange;

(iii) The annuity must be payable over the life of one individual in being at the time the annuity is issued, or over the lives of two individuals in being at such time; and

(iv) The annuity must be payable under a contract which—

(*a*) Does not guarantee a minimum number of payments or specify a maximum number of payments, and

(*b*) Does not provide for any adjustment of the amount of the annuity payments by reference to the income received from the transferred property or any other property.

(2) *Valuation.* For purposes of this paragraph, the value of an annuity at the time of exchange shall be computed in accordance with section 101(b), § 1.101-2(e)(1)(iii)(*b*)(*2*), and section 3 of Rev. Rul. 62-216, C.B. 1962-2, 30.

(3) *Examples.* The application of this paragraph may be illustrated by the following examples. For purposes of these examples it is assumed that the property transferred is used for purposes other than those described in section 514(b)(1)(A), (B), (C), or (D).

Example (1). On January 1, 1971, X, an exempt organization, receives property valued at $100,000 from donor A, a male aged 60. In return X promises to pay A $6,000 a year for the rest of A's life, with neither a minimum nor maximum number of payments specified. The annuity is payable on December 31 of each year. The amounts paid under the annuity are not dependent on the income derived from the property transferred to X. The present value of this annuity is $81,156, determined in accordance with Table A of Rev. Rul. 62-216. Since the value of the annuity is less than 90 percent of A's equity in the property transferred and the annuity meets all the other requirements of subparagraph (1) of this paragraph, the obligation to make annuity payments is not acquisition indebtedness.

Example (2). On January 1, 1971, B transfers an office building to Y, an exempt university, subject to a mortgage. In return Y agrees to pay B $5,000 a year for the rest of his life, with neither a minimum nor maximum number of payments specified. The amounts paid under the annuity are not dependent on the income derived from the property transferred to Y. It is determined that the actual value of the annuity is less than 90 percent of the value of B's equity in the property transferred. Y does not assume the mortgage. For the taxable years 1971 through 1980, the outstanding principal indebtedness secured by the mortgage is not treated as acquisition indebtedness. Further, Y's obligation to make annuity payments to B never constitutes acquisition indebtedness.

(f) *Certain Federal financing.* "Acquisition indebtedness" does not include an obligation to finance the purchase, rehabilitation, or construction of housing for low and moderate income persons to the extent that it is insured by the Federal Housing Administration. Thus, for example, to the extent that an obligation is insured by the Federal Housing Administration under section 221(d)(3) (12 U.S.C. 1715(d)(3)) or section 236 (12 U.S.C. 1715x-1) of title II of the National Housing Act, as amended, the obligation is not "acquisition indebtedness".

(g) *Certain obligations of charitable remainder trusts.* For purposes of section 664(c) and § 1.664-1(c), a charitable remainder trust (as defined in § 1.664-1(a)(1)(i)) does not incur "acquisition indebtedness" merely because it acquires property subject to the requirement that it pay an "annuity

amount" or a "unitrust amount" (as defined in § 1.664–1(a)(1)(ii) and (iii)).

§ 1.514(d) Statutory provisions; unrelated debt-financed income; basis of debt-financed property acquired in corporate liquidation.

SEC. 514. *Unrelated debt-financed income.*

* * * * *

(d) *Basis of debt-financed property acquired in corporate liquidation.* For purposes of this subtitle, if the property was acquired in a complete or partial liquidation of a corporation in exchange for its stock, the basis of the property shall be the same as it would be in the hands of the transferor corporation, increased by the amount of gain recognized to the transferor corporation upon such distribution and by the amount of any gain to the organization which was included, on account of such distribution, in unrelated business taxable income under subsection (a).

[Sec. 514(d) amended by sec. 121(d), Tax Reform Act 1969 (83 Stat. 545)]

§ 1.514(d)–1 Basis of debt-financed property acquired in corporate liquidation.

(a) If debt-financed property is acquired by an exempt organization in a complete or partial liquidation of a corporation in exchange for its stock, the organization's basis in such property shall be the same as it would be in the hands of the transferor corporation, increased by the amount of gain recognized to the transferor corporation upon such distribution and by the amount of any gain which is includible, on account of such distribution, in the gross income of the organization as unrelated debt-financed income.

(b) The application of this section may be illustrated by the following example:

Example. On July 1, 1970, T, an exempt trust, exchanges $15,000 of borrowed funds for 50 percent of the shares of M Corporation's stock. M uses $35,000 of borrowed funds in acquiring depreciable assets which are not used at any time for purposes described in section 514(b)(1)(A), (B), (C), or (D). On July 1, 1978, and for the 12-month period preceding this date, T's acquisition indebtedness with respect to M's stock has been $3,000. On this date, there is a complete liquidation of M Corporation to which section 331(a)(1) applies. In the liquidation T receives a distribution in kind of depreciable assets and assumes $7,000 of M's indebtedness which remains unpaid with respect to the depreciable assets. On this date, M's adjusted basis of these depreciable assets is $9,000, and such assets have a fair market value of $47,000. M recognizes gain of $6,000 with respect to this liquidation pursuant to sections 1245 and 1250. T realizes a gain of $25,000 (the difference between the excess of fair market value of the property received over the indebtedness assumed, $40,000 ($47,000–$7,000) and T's basis in M's stock, $15,000). A portion of this gain is to be treated as unrelated debt-financed income. This amount is determined by multiplying T's gain of $25,000 by the debt/basis percentage. The debt/basis percentage is 20 percent, the ratio which the average acquisition indebtedness ($3,000) is of the average adjusted basis ($15,000). Thus, $5,000 (20 percent of $25,000) is unreleated debt-financed income. This amount and the gain recognized pursuant to sections 1245 and 1250 are added to M's basis to determine T's basis in the property received. Consequently, T's basis in the property received from M Corporation is $20,000, determined as follows:

M Corporation's adjusted basis	$9,000
Gain recognized by M Corporation on the distribution	6,000
Unrelated debt-financed income recognized by T with respect to the distribution	5,000
T's transferred basis	20,000

§ 1.514(e) Statutory provisions; unrelated debt-financed income; allocation rules.

SEC. 514. *Unrelated debt-financed income.*

* * * * *

(e) *Allocation rules.* Where debt-financed property is held for purposes described in subsection (b)(1)(A), (B), (C), or (D) as well as for other purposes, proper allocation shall be made with respect to basis, indebtedness, and income and deductions. The allocations required by this section shall be made in accordance with regulations prescribed by the Secretary or his delegate to the extent proper to carry out the purposes of this section.

[Sec. 514(e) as added by sec. 121(d), Tax Reform Act 1969 (83 Stat. 547)]

§ 1.514(e)–1 Allocation rules.

Where only a portion of property is debt-financed property, proper allocation of the basis, indebtedness, income, and deductions with respect to such property must be made to determine the amount of income or gain derived from such property which is to be treated as unrelated debt-financed income. See examples (2) and (3) of paragraph (b)(1)(iii) of § 1.514(b)–1 and examples (1), (2), and (3) of paragraph (b)(3)(iii) of § 1.514(b)–1 for illustrations of proper allocation.

§ 1.514(f) Statutory provisions; unrelated debt-financed income; definition of business lease.

SEC. 514. *Unrelated debt-financed income.*

* * * * *

(f) *Definition of business lease.*

(1) *General rule.* For purposes of this section, the term "business lease" means a lease for a term of more than 5 years of real property by an organization (or by a partnership of which it is a member), if at the close of the lessor's taxable year there is a business lease indebtedness (as defined in subsection (g)) with respect to such property.

(2) *Special rules for applying paragraph (1).* For purposes of paragraph (1)—

(A) In computing the term of a lease which contains an option for renewal or extension, the term of such lease shall be considered as including any period for which such option may be exercised; and the term of any lease made pursuant to an exercise of such option shall include the period during which the prior lease was in effect. If real property is acquired subject to a lease, the term of such lease shall be considered to begin on the date of such acquisition.

(B) If the property has been occupied by the same lessee for a total period of more than 5 years commencing not earlier than the date of acquisition of the property by the organization or trust (whether such occupancy is under one or more leases, renewals, extensions, or continuations thereof), the occupancy of such lessee shall be considered to be under a lease for a term of more than 5 years within the meaning of paragraph (1). However, subsection (a) shall apply in the case of a tendency described in this subparagraph (and not within subparagraph (A)) only with respect to the sixth and succeeding years of occupancy by the same lessee. For purposes of this subparagraph, the term "same lessee" shall include any lessee of the property whose relationship with a lessee of the same property is such that losses in respect of sales or exchanges of property between the two lessees would be disallowed under section 267(a).

(3) *Exceptions.*—

(A) No lease shall be considered a business lease if—

(i) Such lease is entered into primarily for purposes which are substantially related (aside from the need of such organization for income or funds or the use it makes of the rents derived) to the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under section 501, or

(ii) The lease is of premises in a building primarily designed for occupancy, and occupied by the organizations.

(B) If a lease for more than 5 years to a tenant is for only a portion of the real property, and space in the real property is rented during the taxable year under a lease for not more than 5 years to any other tenant of the organization, leases of the real property for more than 5 years shall be considered as business leases during the taxable year only if—

(i) The rents derived from the real property during the taxable year under leases for more than 5 years (not including, as a lease for more than 5 years, an occupancy which is considered as such a lease by reason of paragraph (2)(B)) represent 50 percent or more of the total rents derived during the taxable year from the real property; or the area of the premises occupied under leases for more than 5 years (not including, as a lease for more than 5 years, an occupancy which is considered as such a lease by reason of paragraph (2)(B)) represents, at any time during the taxable year, 50 percent or more of the total area of the real property rented at such time; or

(ii) The rent derived from the real property during the taxable year from any tenant under a lease for more than 5 years (including as a lease for more than 5 years an occupancy which is considered as such a lease by reason of paragraph (2)(B)) or from a group of tenants (under such leases) who are either members of an affiliated group (as defined in section 1504) or partners, represents more than 10 percent of the total rents derived during the taxable year from such property; or the area of the premises occupied by any one such tenant or by any such group or tenants, represents at any time during the taxable year more than 10 percent of the total area of the real property rented at such time.

In the application of clause (i), if during the last half of the term of a lease a new lease is made to take effect after the expiration of such lease, the unexpired portion of such lease on the date the second lease is made shall not be treated as a part of the term of the second lease.

[Sec. 514(f) as redesignated by sec. 121(d), Tax Reform Act 1969 (83 Stat. 548)]

§ 1.514(f)–1 Definition of business lease.

(a) *In general.* The term "business lease" means any lease, with certain exceptions discussed in paragraph (c) of this section, for a term of more than 5 years of real property by an organization

subject to section 511 (or by a partnership of which it is a member) if at the close of the organization's taxable year there is a business lease indebtedness as defined in section 514(g) and § 1.514(g)–1 with respect to such property. For the purpose of this section the term "real property" and the term "premises" include personal property of the lessor tax-exempt organization leased by it to a lessee of its real estate if the lease of such personal property is made under, or in connection with, the lease of such real estate. For amounts of business lease rents and deductions to be included in computing unrelated business taxable income for taxable years beginning before January 1, 1970, see § 1.514(a)–2.

(b) *Special rules.* (1) In computing the term of the lease, the period for which a lease may be renewed or extended by reason of an option contained therein shall be considered as part of the term. For example, a 3-year lease with an option for renewal for another such period is considered a lease for a term of 6 years. Another example is the case of a 1-year lease with option of renewal for another such term, where the parties at the end of each year renew the arrangement. In this case, during the fifth year (but not during the first 4 years), the lease falls within the 5-year rule, since the lease then involves 5 years and there is an option for the sixth year. In determining the term of the lease, an option for renewal of the lease is taken into account whether or not the exercise of the option depends upon conditions or contingencies.

(2) If the property is acquired subject to a lease, the term of such lease shall be considered to begin on the date of such acquisition. For example, if an exempt organization purchases, in whole or in part with borrowed funds, real property subject to a 10-year lease which has 3 years left to run, and such lease contains no right of renewal or extension, the lease shall be considered a 3-year lease and hence does not meet the definition of a business lease in section 514(f) and paragraph (a) of this section. However, if this lease contains an option to renew for a period of 3 years or more, it is a business lease.

(3) Under the provisions of section 514(f)(2)(B) a lease is considered as continuing for more than 5 years if the same lessee has occupied the premises for a total period of more than 5 years, whether the occupancy is under one or more leases, renewals, extensions, or continuations. Continued occupancy shall be considered to be by the same lessee if the occupants during the period are so related that losses in respect of sales or exchanges of property between them would be disallowed under section 267(a). Such period shall be considered as commencing not earlier than the date of the acquisition of the property by the tax-exempt organization or trust. This rule is applicable only in the sixth and succeeding years of such occupancy by the same lessee. See, however, paragraph (c)(3) of this section.

(c) *Exceptions.* (1) A lease shall not be considered a business lease if such lease is entered into primarily for a purpose which is substantially related (aside from the need of such organization for income or funds, or the use it makes of the rents derived) to the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption. For example, where a tax-exempt hospital leases real property owned by it to an association of doctors for use as a clinic, the rents derived under such lease would not be included in computing unrelated business taxable income if the clinic is substantially related to the carrying on of hospital functions. See § 1.513–1 for principles applicable in determining whether there is a substantial relationship to the exempt purpose of an organization.

(2) A lease is not a business lease if the lease is of premises in a building primarily designed for occupancy and occupied by the tax-exempt organization.

(3) If a lease for more than 5 years to a tenant is for only a portion of the real property, and space in the real property is rented during the taxable year under a lease for not more than 5 years to any other tenant of the tax-exempt organization, all leases of the real property for more than 5 years shall be considered as business leases during the taxable year only if—

(i) The rents derived from the real property during the taxable year under leases for more than 5 years represent 50 percent or more of the total rents derived during the taxable year from the real property; or the area of the premises occupied under leases for more than 5 years represents, at any time during the taxable year, 50 percent or more of the total area of the real property rented at such time; or

(ii) The rent derived from the real property during the taxable year from any tenant under a lease for more than 5 years, or from a group of tenants (under such leases) who are either members of an affiliated group (as defined in section 1504) or are partners, represents more than 10 percent of the total rents derived during the taxable year from such property; or the area of the premises occupied by any one such tenant, or by any such group of tenants, represents at any time during the taxable year more than 10 percent of the total area of the real property rented at such time.

In determining whether 50 percent or more of the total rents are derived from leases for more than 5 years, or whether 50 percent or more of the total area is occupied under leases for more than 5 years—

(iii) An occupancy which is considered to be a lease of more than 5 years solely by reason of the provisions of paragraph (b)(3) of this subparagraph shall not be treated as such a lease for purposes of subdivision (i) of this subparagraph, and

(iv) An occupancy which is considered to be a lease of more than 5 years solely by reason of the provisions of paragraph (b)(3) of this section shall be treated as such a lease for purposes of subdivision (ii) of this subparagraph, and

(v) If during the last half of the term of a lease a new lease is made to take effect after the expiration of such lease, the unexpired portion of the first lease will not be added to the second lease to determine whether such second lease is a lease for more than 5 years for purposes of subdivision (i) of this subparagraph.

(4) The application of subparagraph (3) of this paragraph may be illustrated by the following example:

Example. In 1954 an educational organization, which is on the calendar year basis, begins the erection of an 11-story apartment building using funds borrowed for that purpose, and immediately leases for a 10-year term the first floor to a real estate development company to sublet for stores and shops. As fast as the new apartments are completed, they are rented on an annual basis. At the end of 1959 all except the 10th and 11th floors are rented. Those two floors are completed during 1960 and rented. Assume that for 1954 and each subsequent taxable year through 1959, and for the taxable year 1963, the gross rental for the first floor represents more than 10 percent of the total gross rents derived during the taxable year from the building. Under this set of facts the 10-year lease of the first floor would be considered to be a business lease for all except the taxable years 1961, 1962, and 1964.

§ 1.514(g) Statutory provisions; unrelated debt-financed income; business lease indebtedness.

SEC. 514. *Unrelated debt-financed income.*

* * * * *

(g) *Business lease indebtedness*—(1) *General rule.* The term "business lease indebtedness" means, with respect to any real property leased for a term of more than 5 years, the unpaid amount of—

(A) The indebtedness incurred by the lessor in acquiring or improving such property;

(B) The indebtedness incurred before the acquisition or improvement of such property if such indebtedness would not have been incurred but for such acquisition or improvement; and

(C) The indebtedness incurred after the acquisition or improvement of such property if such indebtedness would not have been incurred but for such acquisition or improvement and the incurrence of such indebtedness was reasonably foreseeable at the time of such acquisition or improvement.

(2) *Property acquired subject to mortgage, etc.* Where real property is acquired subject to a mortgage or other similar lien, the amount of the indebtedness secured by such mortgage or lien shall be considered (whether the acquisition was by gift, devise, or purchase) as an indebtedness of the lessor incurred in acquiring such property even though the lessor did not assume or agree to pay such indebtedness, except that where real property was acquired by gift, bequest, or devise before July 1, 1950, subject to a mortgage or other similar lien, the amount of such mortgage or other similar lien shall not be considered as an indebtedness of the lessor incurred in acquiring such property.

(3) *Certain property acquired by gift, etc.* Where real property was acquired by gift,

bequest, or devise before July 1, 1950, subject to a lease requiring improvements in such property on the happening of stated contingencies, indebtedness incurred in improving such property in accordance with the terms of such lease shall not be considered as an indebtedness for purposes of this subsection.

(4) *Certain corporations described in section 501(c)(2).* In the case of a corporation described in section 501(c)(2), all of the stock of which was acquired before July 1, 1950, by an organization described in paragraph (3), (5), or (6) of section 501(c) (and more than one-third of such stock was acquired by such organization by gift of bequest), any indebtedness incurred by such corporation before July 1, 1950, and any indebtedness incurred by such corporation on or after such date in improving real property in accordance with the terms of a lease entered into before such date, shall not be considered as an indebtedness with respect to such corporation or such organization for purposes of this subsection.

(5) *Certain trusts described in section 401(a).* In the case of a trust described in section 401(a), or in the case of a corporation described in section 501(c)(2), all of the stock of which was acquired prior to March 1, 1954, by a trust described in section 401(a), any indebtedness incurred by such trust or such corporation before March 1, 1954, in connection with real property which is leased before March 1, 1954, and any indebtedness incurred by such trust or such corporation on or after such date necessary to carry out the terms of such lease, shall not be considered as an indebtedness with respect to such trust or such corporation for purposes of this subsection.

(6) *Business lease on portion of property.* In determining the amount of the business lease indebtedness where only a portion of the real property is subject to a business lease, proper allocation to the premises covered by such lease shall be made of the indebtedness incurred by the lessor with respect to the real property.

(7) *Special rule applicable to trusts described in section 401(a).* In the application of paragraph (1), if a trust described in section 401(a) forming part of a stock bonus, pension, or profit-sharing plan of an employer lends any money to another trust described in section 401(a) forming part of a stock bonus, pension, or profit-sharing plan of the same employer, such loan shall not be treated as an indebtedness of the borrowing trust, except to the extent that the loaning trust—

(A) Incurs any indebtedness in order to make such loan;

(B) Incurred indebtedness before the making of such loan which would not have been incurred but for the making of such loan; or

(C) Incurred indebtedness after the making of such loan which would not have been incurred but for the making of such loan and which was reasonably foreseeable at the time of making such loan.

(8) *Trusts described in section 501(c)(17).*

(A) In the case of a trust described in section 501(c)(17), or in the case of a corporation described in section 501(c)(2), all of the stock of which was acquired before January 1, 1960, by a trust described in section 501(c)(17), any indebtedness incurred by such trust or such corporation before January 1, 1960, in connection with real property which is leased before January 1, 1960, and any indebtedness incurred by such trust or such corporation on or after such date necessary to carry out the terms of such lease, shall not be considered as an indebtedness with respect to such trust or such corporation for purposes of this subsection.

(B) In the application of paragraph (1), if a trust described in section 501(c)(17) forming part of a supplemental unemployment compensation benefit plan lends any money to another trust described in section 501(c)(17) forming part of the same plan, such loan shall not be treated as an indebtedness of the borrowing trust, except to the extent that the loaning trust—

(i) Incurs any indebtedness in order to make such loan,

(ii) Incurred indebtedness before the making of such loan which would not have been incurred but for the making of such loan, or

(iii) Incurred indebtedness after the making of such loan which would not have been incurred but for the making of such loan and which was reasonably foreseeable at the time of making such loan.

[Sec. 514(g) as redesignated by section 121(d), Tax Reform Act 1969 (83 Stat. 545)]

§ 1.514(g)-1 Business lease indebtedness.

(a) *Definition.* The term "business lease indebtedness" means, with respect to any real property leased by a tax-exempt organization for a term of more than 5 years, the unpaid amount of—

(1) The indebtedness incurred by the lessor tax-exempt organization in acquiring or improving such property;

(2) The indebtedness incurred by the lessor tax-exempt organization prior to the acquisition or improvement of such property if such indebtedness would not have been incurred but for such acquisition or improvement; and

(3) The indebtedness incurred by the lessor tax-exempt organization subsequent to the acquisition or improvement of such property if such indebtedness would not have been incurred but for such acquisition or improvement and the incurrence of the indebtedness was reasonably foreseeable at the time of such acquisition or improvement.

See paragraph (i) of this section with respect to subsidiary corporations.

(b) *Examples.* The rules of section 514(g) respecting business leases also cover certain cases where the leased property itself is not subject to an indebtedness. For example, they apply to cases such as the following:

Example (1). A university pledges some of its investment securities with a bank for a loan and uses the proceeds of such loan to purchase (either directly or through a subsidiary corporation) a building, which building is subject to a lease that then has more than 5 years to run. This would be an example of a business lease indebtedness incurred prior to the acquisition of the property which would not have been incurred but for such acquisition.

Example (2). If the building itself in example (1) in this paragraph is later mortgaged to raise funds to release the pledged securities, the lease would continue to be a business lease.

Example (3). If a scientific organization mortgages its laboratory building to replace working capital used in remodeling another one of its building or a building held by its subsidiary corporation, which other building is free of indebtedness and is subject to a lease that then has more than 5 years to run, the lease would be a business lease inasmuch as the indebtedness though incurred subsequent to the improvement of such property would not have been incurred but for such improvement, and the incurrence of the indebtedness was reasonably foreseeable when, to make such improvement, the organization reduced its working capital below the amount necessary to continue current operations.

(c) *Property acquired subject to lien.* Where real property is acquired subject to a mortgage or similar lien, whether the acquisition be by gift, bequest, devise, or purchase, the amount of the indebtedness secured by such mortgage or lien is a business lease indebtedness (unless paragraph (d)(1) of this section applies) even though the lessor does not assume or agree to pay the indebtedness. For example, a university pays $100,000 for real estate valued at $300,000 and subject to a $200,000 mortgage. For the purpose of the tax on unrelated business taxable income, the result is the same as if $200,000 of borrowed funds had been used to buy the property.

(d) *Certain property acquired by gifts, etc.* (1) Where real property was acquired by gift, bequest, or devise, before July 1, 1950, subject to a mortgage or other similar lien, the amount of such mortgage or other similar lien shall not be considered as an indebtedness of the lessor tax-exempt organization incurred in acquiring such property. An indebtedness not otherwise covered by this exception is not brought within the exception by reason of a transfer of the property between a parent and its subsidiary corporation.

(2) Where real property was acquired by gift, bequest, or devise, before July 1, 1950, subject to a lease requiring improvements in such property upon the happening of stated contingencies, indebtedness incurred in improving such property in accordance with the terms of such lease shall not be considered as indebtedness described in section 514(g) and in this section. An indebtedness not otherwise covered by this exception is not brought within the exception by reason of a transfer of the property between a parent and its subsidiary corporation.

(e) *Certain corporations described in section 501(c)(2).* In the case of a title holding corporation described in section 501(c)(2), all of the stock of which was acquired before July 1, 1950, by an organization described in section 501(c)(3), (5), or (6) (and more than one-third of such stock was acquired by such organization by gift or bequest), any indebtedness incurred by such corporation before July 1, 1950, and any indebtedness incurred by such corporation on or after such date in improving real property in accordance with the terms of a lease entered into before such date, shall not be considered an indebtedness described in section 514(g) and in this section with respect to either such section 501(c)(2) corporation or such section 501(c)(3), (5), or (6) organization.

(f) *Certain trusts described in section 401(a).* In the case of a trust described in section 401(a), or in the case of a corporation described in section 501(c)(2)

all of the stock of which was acquired before March 1, 1954, by such a trust, any indebtedness incurred by such trust or such corporation before such date, in connection with real property which is leased before such date, and any indebtedness incurred by such trust or such corporation on or after such date necessary to carry out the terms of such lease, shall not be considered as an indebtedness described in section 514(g) and in this section.

(g) *Business lease on portion of property.* Where only a portion of the real property is subject to a business lease, proper allocation of the indebtedness applicable to the whole property must be made to the premises covered by the lease. See example (2) of paragraph (b)(3) of § 1.514(a)-2.

(h) *Special rule applicable to trusts described in section 401(a).* If an employees' trust described in section 401(a) lends any money to another such employees' trust of the same employer, for the purpose of acquiring or improving real property, such loan will not be treated as an indebtedness of the borrowing trust except to the extent that the loaning trust—

(1) Incurs any indebtedness in order to make such loan;

(2) Incurred indebtedness before the making of such loan which would not have been incurred but for the making of such loan; or

(3) Incurred indebtedness after the making of such loan which would not have been incurred but for the making of such loan and which was reasonably foreseeable at the time of making such loan.

(i) *Subsidiary corporations.* The provisions of section 514 (f), (g), and (h) are applicable whether or not a subsidiary corporation of the type described in section 501(c)(2) is availed of in making the business lease. For example, assume a parent organization borrows funds to purchase realty and sets up a separate section 501(c)(2) corporation as a subsidiary to hold the property. Such subsidiary corporation leases the property for a period of more than 5 years, collects the rents and pays over all of the income, less expenses, to the parent organization, the parent organization being liable for the indebtedness. Under these assumed facts, the lease by section 501(c)(2) subsidiary corporation would be a business lease with respect to such subsidiary corporation, and the rental income would be subject to the tax, whether or not the subsidiary itself assumes the indebtedness and whether or not the property is subject to the indebtedness.

(j) *Certain trusts described in section 501(c)(17).* (1) In the case of a supplemental unemployment benefit trust described in section 501(c)(17), or in the case of a corporation described in section 501(c)(2) all of the stock of which was acquired before January 1, 1960, by such a trust, any indebtedness incurred by such trust or such corporation before such date, in connection with real property which is leased before such date, and any indebtedness incurred by such trust or such corporation on or after such date necessary to carry out the terms of such lease, shall not be considered as an indebtedness described in section 514(g) and in this section.

(2) If a supplemental unemployment benefit trust described in section 501(c)(17) lends any money to another such supplemental unemployment benefit trust forming part of the same plan, for the purpose of acquiring or improving real property, such loan will not be treated as an indebtedness of the borrowing trust except to the extent that the loaning trust—

(i) Incurs any indebtedness in order to make such loan;

(ii) Incurred indebtedness before the making of such loan which would not have been incurred but for the making of such loan; or

(iii) Incurred indebtedness after the making of such loan which would not have been incurred but for the making of such loan and which was reasonably foreseeable at the time of making such loan.

§ 1.514(h) Statutory provisions; business leases; personal property leased with real property.

SEC. 514. *Unrelated debt-financed property*

* * * * *

(h) *Personal property leased with real property.* For purposes of this section, the term "real property" and the term "premises" include personal property of the lessor leased by it to a lessee of its real estate if the lease of such personal property is made under, or in connection with, lease of such real estate.

[Sec. 514(h) as redesignated by sec. 121(d), Tax Reform Act 1969 (83 Stat. 548)].

PAR. 6. Section 1.1443 is amended by revising section 1443(a) and by adding a historical note. The amended and added provisions read as follows:

§ 1.1443 Statutory provisions; foreign tax-exempt organizations.

SEC. 1443. *Foreign tax-exempt organizations*—(a) *Income subject to section 511.* In the case of income of a foreign organization subject to the tax imposed by section 511, this chapter shall apply to income includible under section 512 in computing its unrelated business taxable income, but only to the extent and subject to such conditions as may be provided under regulations prescribed by the Secretary or his delegate.

* * * * *

[Sec. 1443 as amended by section 121(d), Tax Reform Act 1969 (83 Stat. 547)]

PAR. 7. Section 1.1443-1 is amended by revising subparagraph (1) and adding a new subparagraph (2) to paragraph (a). These amended and added provisions read as follows:

§ 1.1443-1 Foreign tax-exempt organizations.

(a) *Income subject to section 511*—(1) *Taxable years beginning after December 31, 1966, and before January 1, 1970.* In the case of a foreign tax-exempt organization which is subject to the tax imposed by section 511, any rents paid to such organization in a taxable year beginning after December 31, 1966, and before January 1, 1970, which are includible under section 512 in determining its unrelated business taxable income, shall not be subject to withholding under § 1.1441-1. See paragraph (a)(2) of § 1.1441-4 for rules for claiming the exemption from withholding in the case of such rents.

(2) *Taxable years beginning after December 31, 1969.* In the case of a foreign tax-exempt organization which is subject to the tax imposed by section 511, any income received by such organization in a taxable year beginning after December 31, 1969, which is includible under section 512 in determining its unrelated business taxable income, shall not be subject to withholding under § 1.1441-1. See paragraph (a)(2) of § 1.1441-4 for rules for claiming the exemption from withholding in the case of such income.

[FR Doc.71-10835 Filed 7-30-71;8:45 am]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 919]

PEACHES GROWN IN MESA COUNTY, COLO.

Notice of Proposed Rule Making

Consideration is being given to the following proposal, which would limit the handling of peaches by establishing minimum grades and sizes recommended by the Administrative Committee, established pursuant to the marketing agreement and Order No. 919 (7 CFR Part 919), regulating the handling of peaches grown in the county of Mesa in the State of Colorado. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

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

The recommendations by the Administrative Committee reflect its appraisal of the crop and current and prospective market conditions. Shipments of peaches are currently being made subject to grade and size limitations which became effective July 10, 1971 (36 F.R. 12893). The grade and size requirements specified herein are the same as those in effect during the period July 10 through August 13, 1971. The committee reported that the continuation of such regulation as herein specified is necessary to prevent the handling, on and after August 14, 1971, of any peaches of lower grades and

smaller sizes than those herein specified, so as to provide consumers with good quality fruit, consistent with the overall quality of the crop, while maximizing returns to the producers pursuant to the declared policy of the act. Such proposal reads as follows:

§ 919.311 Peach Regulation 10.

(a) *Order.* During the period August 14 through September 30, 1971, no handler shall ship:

(1) Any peaches of any variety which do not grade at least U.S. No. 1 grade;

(2) Any peaches of any variety which are of a size smaller than 2⅛ inches in diameter: *Provided,* That any lot of peaches shall be deemed to be of a size not smaller than 2⅛ inches in diameter (i) if not more than 10 percent, by count, of such peaches in such lot are smaller than 2⅛ inches in diameter; and (ii) if not more than 15 percent, by count, of the peaches contained in any individual container in such lot are smaller than 2⅛ inches in diameter.

(b) *Definitions.* As used herein, "peaches", "handler", "ship", and "variety" shall have the same meaning as when used in the aforesaid amended marketing agreement and order; "U.S. No. 1", "diameter", and "count", shall have the same meaning as when used in the U.S. Standards for Peaches (7 CFR 51.1210–51.1223).

Dated: July 27, 1971.

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

[FR Doc.71-10950 Filed 7-30-71;8:47 am]

[7 CFR Parts 980]

[Amdt. 1]

ONION IMPORTS

Notice of Proposed Rule Making

Notice is hereby given of a proposed amendment to § 980.110 Onion import regulation (36 F.R. 13260), applicable to the importation of onions into the United States to become effective August 9, 1971, under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

Consideration will be given to any written data, views, or arguments pertaining to the proposed amendment which are filed in quadruplicate with the Hearing Clerk, Room 112-A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 5 days after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)). The proposed amendment is as follows:

In § 980.110 Onion import regulation (36 F.R. 13260), delete the introductory paragraph and paragraph (a) and substitute in lieu thereof the following new paragraphs:

§ 980.110 Onion import regulation.

Pursuant to section 608e-1 of the act (7 U.S.C. 608e-1) and except as otherwise provided herein, during the period beginning August 9, 1971, and continuing through May 15, 1972, no person may import onions of the yellow or white varieties unless such onions are inspected and meet the requirements of this section.

(a) *Minimum grade, size, quality, and condition*—(1) *Yellow varieties.* U.S. No. 2, or better grade, 1½ inches minimum diameter.

(2) *White varieties.* U.S. No. 2, or better grade, 1 inch minimum diameter.

(3) *Yellow and white varieties.* At least "moderately cured."

(4) *Condition.* Due consideration shall be given to the time required for transportation and entry of onions into the United States. Onions with transit time from country of origin to entry into the United States of 10 or more days may be entered if they meet an average tolerance for decay of not more than 5 percent, provided they meet the other requirements of this section.

* * * * *

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

Dated: July 27, 1971.

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

[FR Doc.71-10951 Filed 7-30-71; 8:47 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[24 CFR Part 32]

[Docket No. R-71-133]

ASSISTANCE FOR NEW COMMUNITIES

Notice of Proposed Rule Making

Notice is hereby given that the Community Development Corporation established within the Department of Housing and Urban Development proposes to issue the regulations set forth below as a new Part 32 of Title 24, pursuant to Part B of the Urban Growth and New Community Development Act of 1970 (title VII of the Housing and Urban Development Act of 1970, 42 U.S.C. 4511 et seq.).

Interested persons are invited to submit written comments or suggestions regarding the proposed regulations in triplicate to the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410, on or before September 10, 1971. All communications timely received will be considered before taking action on the proposed regulations. The proposals contained in this notice may be changed in light of comments received. A copy of each submittal will be available for public inspection during business hours, both before and after the closing date set out above, in the HUD Information Center at the above address.

The proposed regulations cover certain new communities assistance provisions contained in the Urban Growth and New Community Development Act of 1970 which were not included in the President's Budget for 1972. Implementation of final regulations relating to such provisions is not contemplated prior to approval of a budget program transmitted pursuant to the Government Corporation Control Act.

This document is issued pursuant to section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535 (d)).

The proposed regulations are as follows:

PART 32—ASSISTANCE FOR NEW COMMUNITIES

Subpart A—General

Subpart B—New Community Criteria and Standards

Subpart C—Financial and Economic Criteria and Standards

Subpart D—Procedures

Subpart E—Fee and Charge Schedule

Subpart A—General

§ 32.1 Statement of applicable law.

(a) Part B of the Urban Growth and New Community Development Act of 1970 (42 U.S.C. 4511 et seq.) authorizes the Secretary of Housing and Urban Development (acting through the Community Development Corporation for purposes of subparagraphs (1) through (4) of this paragraph and for such other activities mentioned below as he may prescribe) to:

(1) Guarantee the financial obligations issued by or on behalf of private new community developers and State land development agencies to help carry out new community projects approved by the Secretary, except that no obligation of any State land development agency may be guaranteed if the income from such obligation is exempt from Federal taxation;

(2) Make grants to State land development agencies the obligations of which are guaranteed under the Act in amounts not to exceed the difference between interest paid on such obligations and the interest on similar obligations, the income from which is exempt from Federal taxation;

(3) Make loans to private new community developers and State land development agencies to assist them in making interest payments on loans incurred to help finance new community projects approved by the Secretary, at interest rates no less than the interest rate on U.S. obligations of comparable maturity, plus one-eighth of 1 percent and at terms requiring commencement of repayment is not more than 15 years;

(4) Make grants to State land development agencies or to State or local public bodies having responsibility for providing services in approved publicly or privately developed new communities to pay for essential public services (including education, health, and public safety) during an initial period (not exceeding 3 years) prior to the completion of permanent arrangements for the provision of such services;

(5) Provide, either directly or by contract, or other arrangements, to private developers, State land development agencies, or State and local public bodies technical assistance to help them in planning and carrying out new community projects;

(6) Make grants to any State or local public body or agency to supplement Federal assistance that is otherwise available for urban mass transportation facilities, highway construction other than the Interstate System, airport development, hospital and medical facilities under the Hill-Burton program, public libraries, academic facilities for community and 4-year colleges, neighborhood centers, land and water recreation development, open space projects, water and sewer facilities, sewage treatment works, and similar public works and facilities in redevelopment areas designated by the Secretary of Commerce. These facilities must be necessary or desirable for carrying out an approved new community project. The amount of such grants may not exceed 20 percent of the cost of the facilities and in no case can the total Federal contribution to the cost of the facility exceed 80 percent of total cost. Applications for assistance in constructing the facilities must meet applicable requirements for basic grants under section 3 of the Urban Mass Transportation Act of 1964 (49 U.S.C. 1062); section 120(a) of title 23, United States Code (23 U.S.C. 120(a)); section 19 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1701); title VI of the Public Health Service Act (42 U.S.C. 291); title II of the Library Services and Construction Act (20 U.S.C. 355a); section 5 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–8); title VII of the Housing Act of 1961 (42 U.S.C. 1500); section 702 or 703 of the Housing and Urban Development Act of 1965 (42 U.S.C. 3102, 3103); section 8 of the Federal Water Pollution Control Act (33 U.S.C. 466e); section 306(a)(2) of the Consolidated Farmers Home Administration Act (7 U.S.C. 1926); section 103 or 104 of the Higher Education Facilities Act of 1963 (20 U.S.C. 713, 714); or section 101(a)(1) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3131).

(7) Make grants (until June 30, 1975) to State land development agencies and loans or grants to private developers of up to two-thirds of the cost of planning new community development projects, particularly planning work fully responsive to social and environmental problems or encouraging the use of new or advanced technology. Such loans or grants may be made for new community projects which have already been approved or have met initial feasibility criteria and, in the case of private new community developers, only for planning work which is in excess of that which would ordinarily be needed to establish final market, financial and engineering feasibility of comparable projects not subject to the special purposes of a new community approved under the Act.

(b) Upon specific authorization by the President and under applicable Federal law respecting the use of federally owned lands, the Secretary is also authorized to plan and carry out large-scale demonstration projects, which could serve as models for new community developments by other public and private developers.

(c) The Act amends: (1) Section 202(b)(4) of the Housing Amendments of 1955, as amended (42 U.S.C. 1492), to permit public facility loans without regard to the population limits otherwise applicable for facilities serving a new community development assisted under the Act; (2) section 24 of the Federal Reserve Act, as amended (12 U.S.C. 371), with regard to the authority of national banks to invest in obligations guaranteed under the Act; (3) section 5(c) of the Home Owners Loan Act of 1933, as amended (12 U.S.C. 1464) with regard to the authority of the Federal savings and loan associations to invest in obligations guaranteed under the Act; and (4) section 701 of the Housing Act of 1954 as amended (40 U.S.C. 461), to permit the Secretary to make comprehensive planning grants up to 75 percent of cost to official governmental planning agencies for planning areas where rapid urbanization is expected to occur on land developed or to be developed as a new community under the Act. Local planning agencies may plan for specific public works in connection with a new community, in addition to the normal planning activities carried out through 701 planning assistance under this section.

(d) Additional assistance to new communities may be available under other Federal laws, even though they do not refer specifically to the Act or to new communities. For example, public bodies may receive Federal assistance for water, sewer, open space, schools, urban transit, and other facilities which serve new communities. Federal assistance for private sponsors would generally be available on the same basis as in other communities. For example, qualifying private sponsors may receive assistance for sales, rental, and cooperative housing projects for lower income families pursuant to sections 235 and 236 of the National Housing Act as amended (12 U.S.C. 1715z and 1715z–1).

(e) It is the declared purpose of the Act to:

(1) Encourage the orderly development of well-planned, diversified, and economically sound new communities, including major additions to existing communities, and to do so in a manner that will rely to the maximum extent on private enterprise;

(2) Strengthen the capacity of State and local governments to deal with local problems;

(3) Preserve and enhance both the natural and urban environment;

(4) Increase for all persons, particularly members of minority groups, the available choices of locations for living and working;

(5) Encourage the fullest utilization of the economic potential of older central cities, smaller towns, and rural communities;

(6) Assist in the efficient production of a steady supply of residential, commercial, and industrial building sites at reasonable cost;

(7) Increase the capability of all segments of the homebuilding industry, including both small and large producers, to utilize improved technology in producing the large volume of well-designed, inexpensive housing needed to accommodate population growth;

(8) Help create neighborhoods designed for easier access between the places where people live and the places where they work and find recreation;

(9) Encourage desirable innovation in meeting domestic problems whether physical, economic, or social; and

(10) Improve the organizational capacity of the Federal government to carry out programs of assistance for the development of new communities and the

revitalization of the Nation's urban areas.

§ 32.2 Definitions.

For the purpose of the regulations in this part, the following terms shall mean:

(a) *Act.* Part B of the "Urban Growth and New Community Development Act of 1970." (Title VII of the Housing and Urban Development Act of 1970, 42 U.S.C. 4511 et seq.)

(b) *Secretary.* The Secretary of Housing and Urban Development or his authorized representatives.

(c) *General Manager.* The chief executive officer of the Corporation.

(d) *Corporation.* The Community Development Corporation established within the Department of Housing and Urban Development under the Act.

(e) *Private developer.* Any private entity organized in a form satisfactory to the Secretary for carrying out one or more new community projects.

(f) *Public developer (also referred to as State land development agency).* Any State or local public body or agency with authority to act as developer in carrying out one or more new community projects.

(g) *Developer.* Any public developer or private developer.

(h) *State.* Any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of any of the foregoing.

(i) *Local public body or agency.* Any public body or agency, including a political subdivision, created by or under the laws of a State or two or more States, or a combination of such bodies or agencies.

(j) *Project.* The activities and undertakings required to carry out a program which is intended to result in a newly built community or a major addition to an existing community and which meets the eligibility standards set forth in section 712 of the Act and these regulations.

(k) *Land development.* The process of clearing and grading land, making, installing, or constructing waterlines and water supply installations, sewerlines and sewage disposal installations, steam, gas, electric lines and installations, roads, streets, curbs, gutters, sidewalks, storm drainage facilities, and other installations or work, whether on or off the site, which the Secretary deems necessary or desirable to prepare land for residential, commercial, industrial, or other uses, or to provide facilities for public or common use. The term "land development" includes the construction of public facilities, but does not include the construction of any other building unless it is (1) needed in connection with a water supply or sewage disposal installation or a steam, gas, or electric line or installation, or (2) is to be owned and maintained by residents of the new community under joint or cooperative arrangements approved by the Secretary.

(l) *Actual cost.* The costs (exclusive of rebates or discounts) incurred by a new community developer in carrying out the land development assisted under this Act. These costs may include amounts paid for labor, materials, construction contracts, land planning, engineer's and architect's fees, surveys, taxes, and interest during development, organizational and legal expenses, such allocation of general overhead expenses as are acceptable to the Secretary, and other items of expense incidental to development which may be approved by the Secretary. If the secretary determines that there is an identity of interest between the developer and a contractor, there may be included as a part of actual cost an allowance for the contractor's profit or risk an amount deemed reasonable by the Secretary.

§ 32.3 Information.

General information on the new community programs and instructions for applying for assistance under these programs, as well as information on other Federal programs which are related to new communities, may be obtained from the General Manager, Comunity Development Corporation, Department of Housing and Urban Development, Washington, D.C. 20410.

Subpart B—New Community Criteria and Standards

§ 32.5 Applicability of this part.

All public and private developers must comply with this subpart to receive assistance under the Act.

§ 32.6 General criteria for new communities.

In determining whether a given undertaking (otherwise eligible for assistance and consistent with the purposes of the Act) is a project for the purposes of the Act, the Secretary will apply the following general criteria:

(a) It must be designed to create a newly-built community or major addition to an existing community which includes most, if not all, of the basic activities and facilities normally associated with a city or town: Cultural, educational, and religious facilities, as well as housing, transportation, utilities, industry, commerce, open space and recreation;

(b) It must combine these diverse activities in a well-planned and harmonious whole, so as to be economically sound and create an environment that is an attractive place to live, work, and play;

(c) It must contribute to the social and economic welfare of the entire area which it will importantly affect;

(d) It must provide for the creation of a substantial number of jobs, both through development of the project and through the location of business enterprises within the project;

(e) It must provide a viable alternative to disorderly urban growth, helping to preserve and enhance desirable aspects of the natural and urban environment or so improving general and economic conditions in established communities so as to help reverse migration from these communities or rural areas;

(f) It must be designed to increase the available choices for living and working for the fullest possible range of people and families of different compositions and incomes (including a substantial provision for housing for persons and families of low and moderate income) and must be open to all, regardless of race, creed, color, or national origin.

§ 32.7 Specific eligibility criteria.

(a) *Types of eligible projects.* Generally, the following types of new communities may be assisted under the Act:

(1) Economic balanced new communities within metropolitan areas as alternatives to urban sprawl;

(2) Additions to existing smaller towns and cities which can be economically converted into growth centers to prevent decline and accommodate increased population;

(3) Major new-town-in-town developments within or adjacent to existing cities, including developments which would help renew center cities or have a beneficial effect on the city's tax base; and

(4) Free standing and self-sufficient new communities away from existing urban centers where there is a clear showing of economic feasibility, primarily built to accommodate population growth.

(b) *Size, location, and internal diversity.*—(1) *Size.* No minimum or maximum population size, density or physical site area is prescribed for a new community qualifying under the Act, but its size must be significant in comparison with existing development or communities in the area in which it is located. Size and boundary determination may be influenced by the existence of natural features, political boundaries and existing development. Other determinants, such as market data indicating the potential for, and absorption rate of, residential, commercial, and industrial growth, through an extended development period necessary to result in a balanced and mature community shall be considered.

(2) *Access.* A new community must have accessibility to highways, airports, or other public transportation facilities commensurate with its size and the reasonably anticipated requirements of its population, industry, and commerce.

(3) *Relationship to surrounding development.* If a new community involves development which adds to an existing community or to an existing residential, commercial, or industrial area, both the old and new development will be considered in determining whether the new community qualifies for assistance under the Act. To qualify, however, the new development must be substantial, and the old and new elements must be carefully integrated. The resulting total new community must be planned as a whole and must be demonstrably different from that which existed before. An addition to existing development of housing alone, or commercial or industrial facilities alone, will generally not be considered sufficient for this purpose.

Whether or not the new community incorporates existing development it must take account of this development in internal planning and site location decisions.

(d) *Internal diversity.* Although a new community need not be completely self-sufficient, it must provide in a single area the housing, public and commercial facilities, and job opportunities normally associated with a city or town. In determining the degree of internal diversity for a given site, consideration will be given to adequacy of existing or projected facilities in the immediate area. However, the community may not consist simply of housing or of housing with a minimum of commercial facilities serving only the immediate needs of people for neighborhood shopping. Nor may a new community be predominantly an industrial or commercial development, with a minimum supply of new housing.

(c) *Internal development program.* A new community must have a general plan and program for its ultimate development designed to create and maintain an attractive and viable environment responsive to human needs. Among the factors which the Secretary will consider in evaluating the plan are the following:

(1) Suitability of the site for the proposed uses considering its location, size, topography, microclimate, and soil characteristics, and the harmonious relationship of these uses with surrounding development, and their protection against adverse physical encroachment;

(2) Effectiveness of the land use and transportation and circulation plans and population density and distribution in promoting harmonious interrelationships and optimum internal accessibility;

(3) Preservation and enhancement of natural features such as water bodies and steep slopes; establishment and maintenance of an accessible open-space network for conservation, natural beauty, and recreation; effectiveness of measures to prevent environmental pollution; reduction of hazards from flooding, soil instability, and earthquakes; minimization of noise problems; and application of HUD or applicable local standards, whichever are higher, with regard to construction in areas subject to such hazards and problems;

(4) Adherence to the policies of the National Environmental Policy Act of 1969 and any regulations promulgated thereunder;

(5) Adequacy (based on general and other facilities in the area) of public, community, commercial, and other important facilities either within or serving the community, including water, sanitary and storm sewers, streets, walkways, highways, and other transportation facilities, solid waste collection and disposal, gas, electricity, telephone, as well as recreational, health, educational, cultural, and religious facilities;

(6) Adequacy of controls and incentives for promoting and enforcing attractive land utilization, urban design, and architecture;

(7) Balanced phasing of all elements in the program on a schedule compatible with economic feasibility and geared to the timing of land acquisition, development, and disposition as reflected in the financial plan;

(8) The extent to which the plan contemplates significant use of advances in design and technology with respect to land utilization, materials and methods of construction and the provision of community facilities and services; and encourages desirable innovations in meeting social and economic problems;

(9) Adequacy of plans for provision of relocation assistance and payments to persons and business groups to the extent required by the development program; and, with regard to public bodies receiving grant or loan assistance, compliance with applicable Federal and State laws and regulations, including the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(10) Adaptability of the plan to the various problems and alternatives which may arise as the development program proceeds and adequacy of the size of the initial land area which the developer owns or controls to permit the construction of a comparatively balanced community should future land acquisition prove to be infeasible;

(d) *Housing mix.* A new community must contain an adequate range of housing and a variety of housing types for both sale and rental for people of all incomes, ages, and family composition, including a substantial amount for people of low and moderate income during each major phase of residential development. The following factors, among others, will be considered in determining the sufficiency of housing mix:

(1) Existing and projected distribution of families by income and size for the region in which the project is located;

(2) Existing and projected housing supply and demand, particularly for low- and moderate-income housing, in the region and market area of the project; and

(3) Income and family characteristics of persons likely to be employed in the new community.

Existing housing in standard condition or proposed to be rehabilitated within the new community, as well as new construction may be considered in determining adequacy of housing balance. But whether this housing is to be newly constructed or rehabilitated, the new community program must include reasonable assurances that the units planned will actually be provided. If the development of a new community is to be carried out in stages, sites for low- and moderate-income housing shall be included in every major residential stage.

(e) *Community services and government.* (1) A new community must be provided with a full range of government and public services adequate to meet the needs of all its residents. Such services may be provided by State or local government, by community organizations, or by other appropriate entities. The use of general purpose units of government will ordinarily be favored in preference to special districts. If public facilities or utilites are to be operated by a nonpublic body, rates and charges, capital structure, rate of return, and methods of operation of the facility or utility must be regulated by a public body or by other means satisfactory to the Secretary.

(2) A new community need not be or constitute a separate political unit but may be governed through a county, city, town, or other existing political jurisdiction. Where it is contemplated that a developer or a developer-controlled organization or association will, during the course of development, perform functions normally performed by a general unit of government, provision should be made in the new community plan or plans for an orderly transfer of such functions to an appropriate governmental unit at the earliest appropriate time.

(f) *Area planning and development.* (1) The area within which a new community is to be situated must be covered by a comprehensive areawide plan or by ongoing planning promulgated or carried on by a duly authorized agency. The location of the new community and the internal development plan for the project must be consistent with such comprehensive plan or planning and must reflect consideration of any economic development programs, social plans, functional plans, and public works programs of relevant Federal, State, regional, city, or county agencies for the area in which the new community is located. The comprehensive plan or planning for the area must, in the Secretary's judgment, be sufficiently detailed to provide a reasonable basis for evaluating the relationship of the proposed new community to other plans (including State, local, and private plans) and activities involving area population, housing and development trends, and transportation, water, sewage, recreation, and other relevant facilities. In those areas where there is an areawide planning agency certified by the Secretary, consistency must be found between the planning performed by the certified agency and the new community.

(2) There should be continued planning coordination by the developers with the local or areawide planning agency.

(g) *Governmental reviews and approvals.* The developer must secure all State and local reviews and approvals required by law or determined by the Secretary to be necessary for the project. To the extent significant project activities will require, or depend upon future approvals that are necessarily unobtainable at the time the offer of commitment is made or the project agreement entered into, the Secretary will require that the project plan or plans provide reasonable assurance that such approvals will and can be secured in a timely fashion, as needed. Unless otherwise specified by the Secretary, such assurance will include the adoption by the local governing

body of a resolution, in a form satisfactory to the Secretary, approving the new community program.

(h) *Social elements.* In order to assure that projects reflect social considerations and human needs, new community development programs must reflect or incorporate the following:

(1) Use of citizen advisory groups, opinion surveys, or other methods of improving communications and developing a design and structure for the new community that will be responsive to the needs of residents, both at the beginning and, through continuing evaluation, at later stages of development; and adequacy of provision for public hearings and opportunity for comment by local residents affected by the project;

(2) Location and distribution of housing types and price ranges so as to prevent segregation and afford full access to facilities, and participation in activities, of the community and neighborhood by groups, families, and individuals of different economic, social, and racial backgrounds;

(3) A program of citizen participation in project activities, including use of home associations and civic organizations (acceptable to the Secretary) appropriately formulated to supplement, as necessary, opportunities offered by governmental or public institutions, and to provide for full opportunity for participation by renters and low-income residents;

(4) Specific actions that may be needed to promote high quality schools or to encourage or assure, as appropriate, establishment of community colleges, technical or vocational education centers, adult education courses, and job retraining facilities; and

(5) In cases where the developer is directing the Project to the needs of the aged or physically handicapped, the adequacy of special facilities to serve these families and persons and the provision of a barrier free environment to facilitate their free movement and self-sufficiency.

(i) *Disclosure of certain interests.* Developers and contractors must disclose, in accordance with such procedures or forms as the Secretary may prescribe, all direct and indirect interests that may affect the arm's length character of any transaction relied upon to establish estimated or actual costs, or value, for purposes of determining the amount of obligations to be guaranteed or the amount of the proceeds of such obligations that can be disbursed. Where such interests exist, the Secretary may fix such special allowances or fees, or require special accounting for costs, or take such other actions as he may determine are reasonable and appropriate in order to prevent the guarantee of obligations, or the disbursement of funds, in excessive amounts.

(j) *Staging.* Major new community projects will ordinarily be planned, carried out, and financed in progressive stages, so as to provide an opportunity to test the market and minimize financial risk, with each stage resulting in a balanced development. Exceptions to this requirement, and the degree of and terms for staging, will be determined according to the scope of the project, the nature of market demand, the extent of assurance that all contemplated financing will be obtained and all public actions or approvals taken or obtained, the degree to which economies of scale can in fact be obtained, the possible adverse effects of contemplated major improvements upon the Government's security, the projected scheduling of housing in relation to critical housing needs, particularly needs for low- and moderate-income housing, and such other matters as the Secretary deems relevant. Regardless of the stage covered in the initial application, the developer must submit a general plan for the entire project which will be covered by subsequent stages.

§ 32.8 Other requirements for new community development.

(a) Capability of developer:

(1) The developer must have or show that he will have financial, technical, and administrative ability and background appropriate to the size and complexity of the project, the amount of the obligations to be guaranteed or other assistance given, and the period of time for project completion. The developer must have either in its own organization or available to it land development and related skills of a high order over the whole period of development. It must also have the capacity for anticipating and dealing effectively with the social concerns and problems that must be considered in planning the community or that may arise during the period of development.

(2) Private developers include profit-seeking, nonprofit, or limited dividend entities. The form of organization (including provisions for continuance) of a private developer and changes in that form must be approved by the Secretary. Changes in ownership which might result in changes in control of the developer's operation must also be approved.

(3) Private developers may engage in non-Title VII activities, either in the project itself or in related development, subject to such conditions as the Secretary may impose. The project agreement shall impose such controls and limitations as the Secretary shall determine are required to (i) govern the non-Title VII activities of the developer, in the project itself or otherwise, or (ii) provide separation of accounts and activities to serve the purposes of the Act and protect the financial interests of the United States.

(4) While public developers may engage in non-Title VII activities, they must provide for separate accounting for each new community project and provide assurances that revenues obtained from the project will be invested in the project to the extent necessary to insure that principal, interest and any redemption premiums on indebtedness will be paid when due and that the new community will be developed in a sound and economical manner.

(5) Public developers must have power and authority and be organized in a form adequate to carry out the appropriate purposes and the requirements of the Act and the regulations in this part.

(b) Equal opportunity:

(1) The new community project must be specifically designed and implemented so as to assure compliance with all requirements imposed by, or pursuant to, any applicable statute or executive order treating with discrimination on the basis of race, creed, color, sex, or national origin. These include title VIII (Fair Housing) of the Civil Rights Act of 1968 (42 U.S.C. 3601–3619); titles VI and VII of the Civil Rights Act of 1964 (42 U.S.C. 2000d and 2000e); the Civil Rights Act of 1866 as amended (42 U.S.C. 1981 and 1982); section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1715); Executive Order 11063 (27 F.R. 11527); and Executive Order 11246, as amended by Executive Order 11375 (30 F.R. 12319, as amended by 32 F.R. 14303); which apply variously so as to prohibit discrimination in the use, sale, lease, or other disposition of land, housing, or facilities in the new community and in employment in the new community or in the development of the new community project. Pursuant to the authority in each executive department to issue regulations and take other appropriate action under Executive Order 11063 with respect to its programs, discrimination on the basis of race, color, creed, or national origin in the use, sale, lease, or other disposition of any land developed for residential or related uses with assistance under the Act is hereby specifically made a violation of that order enforceable under the terms of section 302 of the order after due notice and hearing.

(2) In furtherance of subparagraph (1) of this paragraph and as a condition of granting or continuation of assistance, the developer must formulate and implement an affirmative action program. Such a program shall include, but not be limited to, appropriate marketing practices, cooperation with civil rights and civic groups, and inclusion of equal opportunity provisions in pertinent contracts, subcontracts, covenants, and other documents. The developer shall take such further steps as the Secretary may direct to carry out the program, including, but not limited to, provision of equal opportunity in employment and housing and encouragement of minority entrepreneurs, including minority contractors, by encouraging their participation in the construction of the Project and provision of business service.

(c) Labor standards:

(1) All laborers and mechanics employed by the developer or by contractors or subcontractors in land development assisted under this part shall be paid wages not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor, in accordance with Davis-Bacon Act, as amended (40 U.S.C. 276a–276a–5). No assistance shall be extended under this part for any project without first obtaining adequate assurance that these labor

standards will be maintained upon the construction work involved in such project. The Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan No. 14 of 1950 (64 Stat. 1267) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c). No proceeds of new community obligations guaranteed under this part may be disbursed to a developer with respect to land development construction unless these labor standards have been complied with to the satisfaction of the Secretary.

(2) The Secretary shall prescribe that: (i) All construction contracts and subcontracts for land development assisted under this part contain labor standards clauses in furtherance of the Act and of the applicable regulations of the Secretary of Labor; (ii) the developer comply with the provisions of said labor standards clauses; (iii) the provisions of the regulations of the Secretary and the Secretary of Labor with respect to ineligible contractors be observed; and (iv) such certification be filed as necessary to assure compliance with the provisions of said labor standards clauses;

(d) In any new community project, there must be provision satisfactory to the Secretary to

(1) Help maintain a diversified, local homebuilding industry;

(2) Increase the capability of all segments of the homebuilding industry, including both small and large producers, to participate through the increases supply of building sites at reasonable costs and through improved technology, in producing the needed large volume of well-designed, inexpensive housing; and

(3) Encourage broad participation by the homebuilding industry, particularly small builders.

Subpart C—Financial and Economic Criteria and Standards

§ 32.10 Applicability.

Developers must comply with all sections of this subpart to qualify for a loan or guarantee and must comply with §§ 32.11 and 32.12 to qualify for other assistance under the Act.

§ 32.11 Economic feasibility.

A new community must be economically feasible in terms of economic base or potential for growth. Among the criteria by which feasibility will be determined are the following:

(a) Current and projected economic and demographic growth patterns and demand for and supply of industrial, commercial, and residential properties for the region in which the project is located;

(b) The market area of the project and the growth and demand trends projected within this market area;

(c) The advantages of the project, relative to other developments, including its location, the managerial and marketing skills associated with it, and its capacity to sustain a job base which, in turn, will generate demand for housing and commercial facilities.

In the case of projects in rural and other areas, including those beyond the urbanizing portion of a metropolitan area, where, for economic or other reasons, advantage cannot be taken of existing growth trends, it is particularly important that there will be a large enough employment base to generate demand to sustain the projected growth rate of the new community. Feasibility will depend upon commitments from industry and government public works projects; the basic conditions for industrial development; and the probable effectiveness of private and governmental efforts to attract stable industries and to overcome some of the major obstacles to economic development.

§ 32.12 General financial plan and program.

A new community must be developed pursuant to a financial plan or program which must include provisions that will:

(a) Cover all anticipated project costs, including, but not limited to, costs which will be met with funds to be borrowed under the obligations guaranteed;

(b) Demonstrate the manner by which, and the sources from which, these costs will be met, including anticipated revenues from the project, financial resources of the developer, and borrowing;

(c) In the case of a private developer, provide assurances that the developer will have an adequate incentive, in terms of equity invested and expected return, for completing the approved project in an expeditious and efficient manner;

(d) Set forth a procedure for periodic updating of the financial plan to take into consideration changes in costs, revenues, market conditions, and other relevant changes affecting the plan; and

(e) Provide assurances that the project will not have an adverse long-term fiscal impact on the surrounding political jurisdiction.

§ 32.13 Maximum Federal guarantee.

(a) The maximum outstanding indebtedness for any project which may be guaranteed under the Act shall involve a principal obligation: (1) In the case of a public developer not exceeding 100 percent of the sum of the Secretary's estimate of the value of the real property before development and his estimate of the actual cost of the land development, or (2) in the case of a private developer, not exceeding the sum of 80 percent of the Secretary's estimate of the value of the real property before development and 90 percent of his estimate of the actual cost of the land development. In no event shall the principal amount of the outstanding obligations guaranteed under the Act with respect to a single project exceed $50 million.

(b) Land which is yet to be acquired and costs which are yet to be incurred at the time a commitment is made may be included as a basis for determining maximum commitment, but, in the absence of escrow or trust provisions only land acquired and costs incurred at or prior to issuance of a guarantee may be included as a basis for determining the maximum outstanding principal amount of obligations which may be guaranteed.

(c) No obligation of any State land development agency shall be guaranteed under the Act if the income from such obligation is exempt from Federal taxation. The Secretary may make grants and contract to make grants to any public developer in an amount which does not exceed the difference between the interest paid on its obligations guaranteed under the Act and the interest on similar obligations the income from which is exempt from Federal taxation.

§ 32.14 Loans.

(a) The maximum principal amount of direct interest loans to State land development agencies and private developers will be determined by the Secretary's estimate of the interest costs on indebtedness to finance land acquisition and land development costs during the initial period of development. This period (not to exceed 15 years) shall be the period the Secretary estimates to be prior to the time when land marketing activity is of sufficient volume to permit continued development of the project without further loans under this section. Any loan under this section shall be repaid, with interest in terms and conditions satisfactory to the Secretary, commencing at such time as development progress and marketing permit repayment, but commencing not later than 15 years after the date such loan is made. Loans under this section shall bear interest at a rate specified by the Secretary which shall not be less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus one-eighth of 1 percent. Among other factors in determining the interest rate to be charged, the Secretary will take into account the risk of default on the loan and availability of security against such risk. The principal amount of the loans outstanding at any time under this section with respect to a single new community project shall not exceed $20 million.

(b) In the absence of a finding by the Secretary of exceptional need, interest loans and guarantees will not be available to assist the same project.

§ 32.15 Real estate appraisals.

Appraisals of real estate in connection with interest loans or guarantees of developer's obligations will be made by qualified real estate appraisers acceptable to the Secretary. An independent appraisal shall be furnished with the developer's application for guarantee or loan assistance under this part and may be supplemented by additional appraisals undertaken or commissioned by the Secretary at his discretion. Appraisals, regardless of source, are subject to review, modification, and acceptance by the Secretary. Appraisals will be made in accordance with instructions issued by the Secretary from time to time and in accordance with the following principles:

(a) *Value before development.* (1) Estimates of the "as is" value of the property must be based, to the extent possible, on the principle of substitution using as data recent arm's length sales transactions of comparable properties. Unusually high prices paid for parcels to round out a larger holding will be considered as unrepresentative of value of the whole. Parcels will be appraised for their highest and best use for which there is a current market as contrasted to a projected use for some period in the future. (2) The proposed development as a new community, or the financing expected under the Act should not be considered in determining the "as is" value of the real property. The highest and best use assumed should reflect only normal growth that would be expected in any event. The appraiser may, however, consider the effect of improvements completed or under construction prior to guarantee or loan assistance, and changes which have occurred in zoning and comprehensive planning through actions of the developer. The developer shall furnish to the Secretary schedules of acquisition dates and prices paid or option prices in the last arm's length transaction involving the properties controlled by the developer. The Secretary may, at his discretion, make available to the appraiser such part of this information as he deems relevant as appraisal data. In all cases where land valuations exceed actual prices paid by the developer or paid in the latest arm's length transaction, the reasons for the valuations will be fully explained and documented.

(b) *Value during development.* Any appraisals undertaken during the development period will be performed in accordance with the then current instructions issued by the Secretary.

§ 32.16 Costs of and revenues from land development.

(a) *Costs.* For the purposes of estimation of and certification of actual costs of land development, only those of actual cost of land development included in the definitions of these terms in § 32.2 (k) and (l) may be considered:

(1) Estimated and certified actual costs may include costs incurred prior to the date of the Secretary's estimate of value of real property before development only to the extent that they are not reflected in such estimate of value. Taxes, interest, principal payments, and other carrying charges on the real property incurred or accrued prior to that date may not be included.

(2) Construction costs estimates, to the fullest extent feasible, should be supported by detailed engineering cost figures broken down by unit quantities and prices, and must be identified in terms of specific improvements. Other costs of land development) including overhead must be fully supported and detailed.

(3) Fees and charges payable pursuant to Subpart E of this part before or during development may be included as estimated actual costs.

(b) *Revenues.* The basis upon which anticipated revenues are computed should be fully documented so as to enable the Secretary to judge the validity of the cash flow projections and, in the case of land sales, should take into account the anticipated position of the project at the completion of each phase of planned development.

§ 32.17 Terms and conditions of borrowing guaranteed or for which interest is loaned.

(a) *Kind of obligations.* The obligations guaranteed or with respect to which interest loans are made under the Act may include any bond, debenture, note, or other obligation issued by a developer for public or private sale. To facilitate public financing, the guaranteed obligations of any number of developers may be issued to a trustee who will sell to the public, through underwriters or otherwise certificates of participation or other securities evidencing rights in the guaranteed obligations held in trust, provided that the terms and conditions of each such transaction shall be approved by the Secretary.

(b) *Investors and lenders.* Investors in guaranteed obligations or obligations with respect to which interest loans are made, except for public offerings, must be approved by the Secretary or must meet such standards and criteria as may be from time to time prescribed by him. In the case of a public offering, obligations must be underwritten under terms and conditions approved by the Secretary.

(c) *Rates of interest and maturities.* Rates of interest and any other charges relating to guaranteed obligations or obligations with respect to which interest loans are made, and the repayment maturity and redemption privilege provisions of such obligations must be approved by the Secretary.

(d) *Trustees and fiduciaries.* Any trustee or other person or corporation acting in a fiduciary capacity on an interest loan or with respect to a guaranteed obligation must be a banking or other financial institution subject to governmental inspection and supervision. Approval of such a trustee or other person may be conditioned on its written agreement with the Secretary to take such steps and act under such conditions as the Secretary may prescribe for the protection of the security interests of the United States.

§ 32.18 Equity and working capital.

(a) Prior to the execution of the project agreement a developer must make arrangements satisfactory to the Secretary to assure that there will be adequate funds and working capital to meet cash requirements for costs and contingencies, not covered by the proceeds of guaranteed obligations or interest loans incurred or to be incurred in connection with the land development program.

(b) The Secretary may require developers to have equity in addition to funds described in paragraph (a) of this section, according to the amount of and arrangements for debt financing, and such other considerations as he determines may bear upon the risks to the United States as guarantor or lender.

§ 32.19 Security for the guarantee and interest loans.

(a) All obligations guaranteed under the Act or with respect to which interest loans are made under the Act must contain, or be issued subject to, such provisions relating to the security interests of the United States as may be required by the Secretary. These shall include general provisions under which the United States shall acquire rights of subrogation on payment of a guarantee in addition to such special provisions relating to the security of the United States in the specific property, including real property being acquired and developed, or other property as may be appropriate.

(b) Unless otherwise required or approved by the Secretary, the security of the United States for guarantees will include a first lien on the real property of the developer (or such portion thereof as the Secretary may determine) owned or acquired in connection with the project. Whether property is used as security for a Federal loan or for a guarantee, the developer's title to such property and the validity of such lien must be evidenced by a title insurance policy issued by a title insurer licensed to do business in the State in which the real property is located and acceptable to the Secretary, or other satisfactory evidence of title. The form and amount of any title insurance policy shall comply with the standards prescribed by the Secretary. At, or prior to, the issuance of obligations guaranteed under the Act, the lien or other security shall be given to and held by the Secretary, or by a trustee approved by him. The instruments creating such lien and setting forth the terms and conditions under which it is given and held must be satisfactory to the Secretary. The Secretary may require, notwithstanding any provision of law, the developer to contract for the extinguishment upon default of any or all redemptions, equitable, legal or other rights, title and interest of the developer in connection with property subject to any mortgage, deed, trust or other instrument held by or on behalf of the Secretary for the protection of the security interests of the United States.

(c) Such instruments shall include provisions for the release of real property from the lien, as such property is sold or otherwise disposed of for project purposes, in accordance with such schedules and procedures as the Secretary may require in the project agreement to assure that the sale or other disposition of such property (1) adequate release payments will be applied to the redemption of the guaranteed obligations or paid into an appropriate fund, or (2) other appropriate action will be taken or assurances received as may be required to protect the security interests of the United States.

§ 32.20 Terms and conditions of payment under guarantees.

(a) *Nature and scope.* The full faith and credit of the United States is pledged to the payment of all guarantees made under this section with respect to principal, interest, and any redemption premiums. Interest includes that which accrues between the date of default under a guaranteed obligation and the payment thereof in full. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligations for such guarantee, and the validity of any guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligation.

(b) *Claims and payment upon default.* Upon default by a developer in payment of interest or premium on or principal of an obligation guaranteed under the Act, the first recourse of the holder thereof shall be a claim under the guarantee for payment of the defaulted interest, premium, or principal; and upon payment thereof in accordance with the terms of such guarantee, the holder shall have no further recourse. All payments thereunder shall be made in cash from the revolving fund established pursuant to the Act.

§ 32.21 Use of proceeds of guaranteed obligations.

(a) *Land valuation and cost certification.* Disbursements to the developer of proceeds of guaranteed obligations must be supported by the prior submission of a certificate of actual costs and approved by the Secretary. Disbursements may be approved by the Secretary. Disbursements may be approved by the Secretary only for the actual costs of land development as the terms are defined in § 32.2 (k) and (l). Disbursements may also be approved for actual costs of project real property acquisition after the date of the project agreement. Disbursements for real property acquired prior to the date of the project agreement will be approved on the basis of the Secretary's estimate of value of real property before development. Certification of actual costs must be in a form statisfactory to the Secretary and be accompanied by such documentation as he may deem necessary to assure that such costs have actually been incurred and are eligible for financing under the Act. If it is expected that guaranteed obligations will be issued and sold in anticipation of land acquisition or of costs for land development incurred in the future, appropriate provisions must be made for escrow or trusteeship of the proceeds of sale to the extent and so long as disbursement of such proceeds is unsupported by valuation of land actually acquired or certification of actual costs incurred. If there is an identity of interest between the developer and a contractor, the Secretary may require the contractor to separately certify actual costs and may include as a part of actual cost a reasonable allowance for the contractor's profit or risk.

(b) *Limitation on disbursements.* Funds to be derived from obligations which the Secretary has guaranteed or agreed to guarantee shall be disbursed or made available to the developer in accordance with limitations as to disbursements approved by the Secretary. Such limitations shall be based upon project needs, the progress of work completed as against work planned, the maintenance by the developer of required equity and working capital, the possibility of overruns or unanticipated costs, the extent to which allowable land values exceed land costs, and such other matters as the Secretary may deem relevant. Amounts properly allowable and credited, but withheld pursuant to such limitations and not otherwise paid to the developer for approved purposes, will be made available upon conclusion of the project, or the stage of a project to which such amounts relate, or are apportioned, as the Secretary may determine.

Subpart D—Procedures

§ 32.22 Preapplication proposal.

The preapplication procedure for interest loans, guarantee assistance, and for determination of general eligibility under the Act to qualify for the other financial assistance is designed to provide an initial screening, prior to submission of detailed plans by the developer, to determine whether or not a project appears to comply with the broad intent of the Act. It will also provide the General Manager, Community Development Corporation, an opportunity to work with the developer from the earliest stages of project planning.

(a) *Inquiry.* After familiarizing themselves with the Act and the regulations in this part, applicants are encouraged to meet with the General Manager, or his designated representatives to discuss their proposals, so that subsequent steps may be taken with a clear understanding of the goals and requirements of the program.

(b) *Proposal.* The first formal step in processing is submission of a preapplication proposal to the General Manager, Community Development Corporation, U.S. Department of Housing and Urban Development, Washington, D.C. 20410. The proposal should deal in summary form with the criteria for project evaluation set forth in Subparts B and C of this part. The proposal need not include the detailed supporting data required for an application. Specific instructions regarding the items which must be included in a proposal may be obtained from the General Manager. No charge is required upon submission of a preapplication proposal.

(c) *Review and action.* The General Manager upon completion of his review of each proposal, will inform the applicant in writing of his findings and (1) state his willingness to consider an application; or (2) state his willingness to consider an application, indicating the need for specific changes in the project; (3) recommend the resolution of certain critical problems before proceeding with an application; or (4) discourage an application, indicating the aspects of the proposal which do not appear to meet the requirements of the Act. Acceptance of an application does not constitute or imply an assurance of eventual approval. If the applicant is not encouraged to submit an application, but nevertheless believes that the project may qualify under the Act, he may resubmit the proposal for further review with such changes as, in his opinion, will overcome the initial objections of the General Manager.

(d) *Special planning assistance.* Applications for special planning assistance described in § 32.1(a)(7) may be submitted by public and private developers at any time, but will not be acted upon until the Secretary has indicated his willingness to accept an application for interest loans, guarantee assistance or for determination of general eligibility under the Act pursuant to paragraph (c) of this section. Private developers must demonstrate that planning funds requested under this section are needed, will serve the purposes of the Act and will supplement normal activities which would be needed in any event. In determining whether a public body should receive these special funds, consideration will be given to relative need, and the degree to which the project serves the purposes of the Act. Instructions for special planning assistance applications may be obtained from the General Manager.

§ 32.23 Application.

(a) *Submission.* An application for interest loan, guarantee assistance, or determination of general eligibility may be submitted to the General Manager pursuant to instructions received in accordance with § 32.22 and upon payment of the application charge specified in § 32.33. The application for loan and guarantee assistance must contain information adequate to enable the Secretary to make the determination that the criteria covered in Subparts B and C of this part have been met; applications for other assistance under the Act must cover information contained in Subpart B and §§ 32.11 and 32.12 of Subpart C of this part, with appropriate supporting data for economic and financial feasibility. An application for guarantee assistance submitted by a public developer should incorporate any application for related interest grants described in § 32.1(a)(2). Specific instructions regarding the items which must be included in an application may be obtained from the General Manager. Such items may, in addition to other matters, include information as to a range of feasible interest rates on, and alternative repayment schedules and maturities of, the obligations to be guaranteed or in respect of which interest loans are to be made, subject to further determinations in accordance with paragraph (c) of this section.

(b) *Compliance with OMB Circular A-95 and Public Law 91-190.* (1) Except as indicated below, assistance under the Act is subject to compliance with the provisions of Attachment A, Part I of the Office of Management and Budget

Circular A–95. Detailed instructions for compliance will be provided at the time of inquiry as provided in § 32.22. In general, Circular A–95 requires that any organization undertaking to apply for assistance under programs subject to the Circular notify the appropriate clearinghouse(s) for the area in which the project is located of its intent to apply for assistance for the purpose of affording the clearinghouse(s) and interested agencies in the area an opportunity to comment on the proposed project. At the time a proposal is submitted to HUD, it should also be submitted to the appropriate clearinghouses. An application will not be accepted by the General Manager unless it is accompanied by evidence of compliance with Circular A–95. Only under special circumstances will modifications in the time of the requirements be made.

(2) Full compliance will be required with the provisions of Public Law 91–190 (The National Environmental Policy Act of 1969) regarding public and agency review of the impact of new community projects upon environmental quality.

(c) *Offer of commitment.* If the determinations referred to in paragraph (a) of this section are made by the Secretary and an application is approved by him hereunder, the Secretary (acting through the Community Development Corporation) may address a letter to the applicant stating in effect that, based upon the information contained in the applicant's proposal and application and any other information which may have been submitted by the applicant, the Secretary (acting through the Community Development Corporation) is prepared to enter into an agreement providing for the guarantee under the Act of a specified maximum principal amount of obligations to be issued by a specified developer or providing for a specified maximum principal amount loans under the Act in respect to interest on obligations to be issued by a specified developer, subject to approval by the Secretary of

(1) The initial investors (in the case of a private sale of such obligations) or the terms and conditions of the underwriting (in the case of a public sale of such obligations);

(2) The rate of interest to be borne by such obligations or the formula by which such rate will be determined;

(3) The repayment and maturity provisions of such obligations;

(4) The specific measures for the protection of the security interests of the United States, liens and releases of liens, and payment of taxes; and

(5) All other terms and conditions of the financing arrangements which might affect the interest of the United States; and subject to such further conditions as the Secretary may prescribe.

(d) *Acceptance of offer of commitment.* The offer to commit contained in any such letter shall expire 120 days after the issuance thereof unless accepted by the applicant prior to such expiration by payment of the commitment charge specified in § 32.34 and meeting such conditions to acceptance as the Secretary may impose. Within 90 days after the expiration of such offer to commit, it may be reopened and accepted by the applicant by request in writing to the Secretary accompanied by tender of the commitment charge and the reopening charge, if the Secretary in his discretion approves such a request. An accepted offer to commit shall remain effective as a commitment to enter into a project agreement pursuant to § 32.24 for 6 months, at which time the commitment shall expire unless the applicant has taken all steps that the Secretary determines to be required under this part as a prequisite to the execution of such project agreement or unless such 6-month period is extended at the discretion of the Secretary.

§ 32.24 Project agreement.

Following satisfaction of all conditions stated in any commitment of the Secretary, and before the making of any guarantees, interest grants, or interest loans, the developer will be required to enter into a Project Agreement which shall be in a form satisfactory to the Secretary. The agreement shall set forth the understandings of the Secretary and the developer with respect to the entire project, including the understandings, if any, as to how the project is to be carried out in stages. The agreement shall also set forth the developer's Agreement to carry out the project in accordance with specified plans, as approved by the Secretary, and the Secretary's agreement to guarantee obligations of the developer issued pursuant to those plans, to make interest grants (in the case of a public developer), to make interest loans to the developer, or to combine such forms of assistance, subject to the limitations set forth in the Act and this part. The agreement (or a related agreement) shall further include:

(a) An express covenant to the effect that the Government's interests in the project are not limited to its financial interests but extend to accomplishment of the public purposes of the Act;

(b) Provisions setting forth the duties and responsibilities of the developer with respect to parts or portions of the project which will not be carried out by the developer;

(c) Provisions governing the security to be provided to the United States;

(d) Provisions setting forth the rights and remedies of the United States in the event of default, including rights to seek injunctive or other equitable relief;

(e) Special provisions as necessary to assure compliance with equal opportunity, labor standards, and other particular requirements;

(f) Duties of the developer to provide information, data, and reports as required by the Secretary; to maintain adequate books and records; and to permit and provide as necessary for inspections and on-site examinations by or on behalf of the Secretary; and

(g) Such other provisions as the Secretary may require as necessary or appropriate to assure adherence to the project as approved or to the provisions of the Act or of this part, or to protect the Government against loss.

§ 32.25 Issuance of guaranteed obligations.

Pursuant to the project agreement and upon satisfaction of the conditions specified in such agreement, the Secretary will endorse his guarantee upon obligations duly issued by the developer pursuant to a purchase or underwriting agreement aproved by the Secretary, will make interest grants (in the case of a public developer) or will make interest loans. The guarantee fee specified in § 32.36 must be paid at the time any guarantee is made, subject to waiver at the discretion of the Secretary in the case of obligations issued by a public developer in respect of which the Secretary determines that the interests of the United States are protected by appropriate recourse to, or other arrangements with, State or local governments.

§ 32.26 Disbursement of loans.

Interest loan funds will be disbursed on schedule with the certification of interest payments.

§ 32.27 Project execution and monitoring.

(a) *Inspections and reports.* To insure that the project is being executed in a manner consistent with the objectives of the Act and as provided in the project or other agreements, the developer will be required to submit periodic financial and other reports on project execution. The Secretary will also be afforded access to the project site at all reasonable times for purposes of inspection.

(b) *Records.* The developer must maintain, to the satisfaction of the Secretary, records of all costs incurred for the project and must require his contractors and subcontractors to maintain similar records. Upon request, all records and all agreements relevant thereto shall be made available at all reasonable times for examination by the Secretary. Insofar as such records and agreements relate to any grants, loans, or guarantees made pursuant to this part, the financial transactions of recipients of Federal assistance may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, files, and all other papers, things, or property belonging to or in use by such recipients pertaining to such financial transactions and necessary to facilitate the audit.

(c) *Amendments.* As a result of changes in market demand, employment patterns, costs and revenues or other factors or conditions, it may become desirable to make certain amendments to the plans initially approved by the Secretary. All proposals for amendments by the developer must be submitted to the Secretary for approval, together with full justification therefor. Such approval will

be based upon the same criteria, and will take account of the same purposes, as are set forth in this part for consideration of the initial application. The Secretary may recommend, or require, subject to conditions set forth in the project agreement, amendments to an approved plan when, in his opinion, such amendments are necessary or desirable to insure the financial stability of the project or to prevent situations which would impair the value of the project or its ability to carry out the purposes of the Act.

§ 32.28 Supplementary grants.

Applications for the basic grants described in § 32.1(a)(6) should be made to the office having authority to make such basic grants. Application for any of the supplementary grants for public facilities described in that Section may be made by an eligible State or local public body at or subsequent to the making of an application for basic grant assistance under any of the programs authorized by legislative provisions cited in that Section and should be made to the General Manager. A copy of the application for basic grants should also be filed by the applicant with the General Manager, Community Development Corporation, U.S. Department of Housing and Urban Development, Washington, D.C. 20410. Instructions for supplementary grant applications may be obtained from the General Manager. A contract for supplementary grant assistance will be entered into only upon (a) a determination by the Secretary that the project for which assistance is requested is necessary or desirable for carrying out a project in accordance with the requirements of Subpart B and §§ 32.11 and 32.12 of Subpart C of this part; (b) execution of a contract or other commitment for the related basic grant assistance by a duly authorized government official, and (c) execution of an agreement with the developer as discussed in § 32.24.

§ 32.30 Multiple forms of assistance.

Except as specified in § 32.14(b), the award of any form of assistance provided under this part shall not in itself exclude the availability of any other form of assistance under this part. Except as specified in § 32.22(d) the availability of any form of assistance under this part is not conditioned upon action taken with respect to any other form of assistance under this part. If supplemental or public service grant assistance is sought in the absence of guarantee or loan assistance, the Secretary may impose such requirements and enter into such agreements as he deems appropriate to insure that the development of a new community project proceeds in accord with an approved new community program.

§ 32.31 Projects initiated under the New Communities Act of 1968.

A new community development project for which a commitment of guarantee assistance has been offered under the New Communities Act of 1968 shall be deemed to have met the eligibility requirements of Subparts B and C of this part, for purposes of guarantee assistance; as to any outstanding portion of such commitment, the developer may elect to proceed under the Act and this part or to proceed under the New Communities Act of 1968 and regulations thereunder. Such developers who wish their projects to qualify for other assistance under the Act should contact the General Manager as to additional requirements. All preapplication proposals, applications, and materials in support thereof submitted in respect of projects for which no commitment has been offered under the New Communities Act of 1968 shall be deemed submitted under the Act and this part.

Subpart E—Fee and Charge Schedule

§ 32.33 Application charge.

An application charge of $10,000, nonrefundable, shall accompany any application for interest loan, guarantee assistance, or determination of eligibility under the Act by a public or private developer.

§ 32.34 Commitment charge.

A commitment charge equal to 0.5 percent of the principal amount of the guarantee or interest loan commitment by the Secretary up to $30 million, and in addition, 0.1 percent of the principal amount above $30 million, shall be paid upon acceptance of an offer of commitment or at the time a guarantee or interest loan is made, whichever occurs first. Should the project become impractical, infeasible, or impossible to undertake, the Secretary may refund such portion of the commitment charge as he deems equitable.

§ 32.35 Reopening charge.

A reopening request pursuant to § 32.23(d) shall be accompanied by a charge of 0.05 percent of the expired offer of commitment for interest loan or guarantee assistance. An offer of commitment which has expired because of the failure to pay the commitment charge may be reopened and accepted only upon payment of the commitment charge and the reopening charge.

§ 32.36 Guarantee fee.

A guarantee fee equal to 3 percent of the principal amount of guaranteed obligations shall be paid at the time of the issuance of such obligations, subject to waiver at the discretion of the Secretary in the case of obligations issued by a public developer as provided in § 32.25.

§ 32.37 Annual fee for guarantees.

An annual fee equal to 0.5 percent of the average principal amount of guaranteed obligations outstanding during the preceding year shall be paid on the first anniversary date of the guarantee, until the seventh such date; and, thereafter, an annual fee of 1 percent of the average principal amount of guaranteed obligations outstanding during the preceding year shall be paid on each subsequent anniversary date of the initial guarantee until the total obligation is paid in full: *Provided*, That such annual fees may be waived at the discretion of the Secretary in the case of obligations issued by a public developer in respect of which the Secretary has waived the guarantee fee.

§ 32.38 Transfer charge.

Upon application for approval of a case involving the substitution of developers, a transfer charge of 0.05 percent of the unused portion of the the commitment for interest loan or guarantee assistance shall be paid.

Issued at Washington, D.C., July 28, 1971.

GEORGE ROMNEY,
Chairman, Community Development Corporation; Secretary of Housing and Urban Development.

[FR Doc.71-10995 Filed 7-30-71;8:51 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 71-EA-110]

PRATT & WHITNEY AIRCRAFT ENGINES

Proposed Airworthiness Directive

The Federal Aviation Administration is considering amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to Pratt & Whitney Type JT8D aircraft engines.

There have been reports of several failures of the fuel nozzle support assemblies in the subject aircraft engines which resulted in extensive engine damage and some airframe damage. Since this is a deficiency which might exist or develop in engines of similar type design, the proposed airworthiness directive would require replacement of certain numbered fuel nozzle support assemblies.

Interested parties are invited to participate in the making of the proposed rule by submitting written data and views. Communications should identify the docket number and be submitted in duplicate to the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before taking action upon the proposed rule. The proposals contained in the notice may be changed in light of comments received. All comments will be available in the Office of Regional Counsel for examination by interested parties.

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

PRATT & WHITNEY AIRCRAFT. Applies to all JT8D-1, JT8D-1A, JT8D-7, JT8D-7A,

JT8D-9, and JT8D-11 turbofan engines which incorporate the following part number 458083, 468472, 480735, 481033, 493332, 501725, and 523476 fuel nozzle support assemblies.

To prevent failure of the fuel nozzle support assemblies from fatigue distress in the base fillet, accomplish the following:

Within the next 5,000 hours' time in service after the effective date of this AD unless already accomplished replace all fuel nozzle support assemblies, part number 458083, 468472, 480735, 481033, 493332, 501725, or 523476 with increased durability fuel nozzle support assemblies, part number 572060, 575698, or 629156.

Upon submission of substantiating data through an FAA Maintenance Inspector by an owner or operator, the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Eastern Region, may adjust the compliance time. (Pratt & Whitney Aircraft Turbojet Engine Service Bulletin No. 3068 pertains to this subject.)

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

Issued in Jamaica, N.Y., on July 22, 1971.

LOUIS J. CARDINALI,
Acting Director, Eastern Region.

[FR Doc.71-10937 Filed 7-30-71;8:46 am]

[14 CFR Part 71]

[Airspace Docket No. 71-CE-85]

FEDERAL AIRWAYS

Proposed Alteration

The Federal Aviation Administration (FAA) is considering amendments to Part 71 of the Federal Aviation Regulations that would rescind the east alternate segment of VOR Federal airway No. 5 from Cincinnati, Ohio, to Appleton, Ohio, and the east alternate segment of VOR Federal airway No. 55 from Dayton, Ohio, to Fort Wayne, Ind.

The last peak day report indicates no operations on either of these airway segments. Their retention for traffic control purposes can, therefore, no longer be justified.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on July 26, 1971.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71-10936 Filed 7-30-71;8:46 am]

[14 CFR Part 71]

[Airspace Docket No. 71-SO-20]

FEDERAL AIRWAY SEGMENTS AND TRANSITION AREA

Proposed Revocation and Alteration

The Federal Aviation Administration (FAA) is considering amendments to Part 71 of the Federal Aviation Regulations that would revoke segments of VOR Federal airway Nos. 97E and 492S, realign segments of V-7, V-7E, and V-492, and alter the Florida transition area.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

As parts of these proposals relate to the navigable airspace outside the United States, this notice is submitted in consonance with the ICAO International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of and Annex 11 to the Convention on International Civil Aviation, which pertain to the establishment of air navigation facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of contracting State, derived from ICAO, wherein air traffic services are provided and also whenever a contracting State accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting State accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, State aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting State, the United States agreed by Article 3(d) that its State aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since these actions involve, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

The airspace actions proposed in this docket would:

1. Revoke the segments of V-97E from the Arcadia, Fla., Intersection to the Tallahassee, Fla., VORTAC.

2. Revoke the segment of V-492S from the La Belle, Fla., VOR to the Palm Beach, Fla., VORTAC.

3. Realign the segment of V-492 from the La Belle VOR to the Palm Beach VORTAC via the intersection of the La Belle 100°T (099°M) and Palm Beach 272°T (272°M) radials.

4. Realign the segment of V-7 from the Biscayne Bay, Fla., VORTAC direct to the Fort Myers, Fla., VORTAC, including an east alternate from Biscayne Bay to Fort Myers via the Miami, Fla., VORTAC and the intersection of the Miami 316°T (316°M) and Fort Myers 096°T (095°M) radials.

The proposed amendments are needed for the following reasons:

1. The segments of V-97E to be revoked coincide, in part, with V-7 and V-35W. The portion that does not coincide with another airway is not used sufficiently to warrant continued designation as an alternate airway. Its revocation would not derogate air traffic service.

2. The realigned segment of V-7 would underlie a portion of J-58/85 and thereby facilitate transitioning of aircraft inbound to the Miami terminal area from the high altitude structure. The realigned V-7E would be used for aircraft departing airports within the Miami terminal area destined to airports in the Fort Myers area.

3. The segment of V-492S to be revoked is not being used and does not conform to the Miami Center/Palm Beach terminal procedures.

4. The realigned segment of V–492 would overlie the Bryant Intersection. This would facilitate the transitioning of aircraft to the Palm Beach terminal area.

The revocation of V–97E outside the United States south of Cross City, Fla., would leave a small portion of uncontrolled airspace in the 2,000-foot floor portion of the Florida transition area. Since this airspace is needed for the control of air traffic, the 2,000-foot floor portion of the Florida transition area would be amended as follows: The phrase "that airspace northwest of Tampa bounded on the east by V–35W, on the southwest and northwest by V–97E" would be deleted and the phrase "that airspace northwest of Tampa bounded on the east by V–35W, on the west by V–97, and on the north by V–7W" would be substituted therefor.

These amendments are proposed under the authority of sections 307(a) and 1110 of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1510), Executive Order 10854 (24 F.R. 9565) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on July 26, 1971.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71–10938 Filed 7–30–71;8:46 am]

ATOMIC ENERGY COMMISSION

[10 CFR Part 2]

RULES OF PRACTICE

Contested Facility Licensing Proceedings; Extension of Time for Submitting Comments

On May 5, 1971, the Atomic Energy Commission published in the FEDERAL REGISTER (36 F.R. 8379) proposed amendments to its Rules of Practice in 10 CFR Part 2, pertaining to contested facility licensing proceedings. Interested persons were invited to submit comments or suggestions within 60 days after publication of the notice of proposed rule making in the FEDERAL REGISTER.

The Commission is hereby extending the time for submitting comments to August 31, 1971. Comments received after that time will be considered if it is practicable to do so, but assurance of consideration cannot be given except as to comments filed within the period specified. Copies of comments received may be examined at the Commission's Public Document Room, 1717 H Street NW., Washington, DC.

(Sec. 161, 68 Stat. 948; 42 U.S.C. 2201)

Dated at Washington, D.C., this 29th day of July 1971.

For the Atomic Energy Commission.

W. B. MCCOOL,
Secretary of the Commission.

[FR Doc.71–11073 Filed 7–30–71;8:54 am]

ENVIRONMENTAL PROTECTION AGENCY

[41 CFR Part 15–3]

PROCUREMENT REGULATIONS

Profit or Fee

Notice is hereby given that the Environmental Protection Agency proposes a new procurement regulation concerning the negotiation of profit or fee (41 CFR 15–3.808–50) to read as set forth below.

Interested parties may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate, to the Environmental Protection Agency, Contracts Management Division, 1626 K Street NW., Washington, DC 20460. All communications received within thirty (30) days from date of publication of this notice in the FEDERAL REGISTER will be considered prior to adoption of the final regulation. A copy of each communication will be placed on file for public inspection in the Contracts Management Division, Room 401, 1616 K Street NW., Washington, D.C.

The proposed regulation is to be issued under the authority of Section 205(c) of the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended (40 U.S.C. 486(c)).

Dated: June 28, 1971.

WILLIAM D. RUCKELSHAUS,
Administrator.

§ 15–3.808–50 **Profit or fee guidelines.**

(a) (1) *General.* It is the policy of the Agency to utilize profit to attract contractors who possess talents and skills necessary to the accomplishment of the objectives of the EPA, and to stimulate efficient contract performance. In negotiating profit/fee, it is necessary that all relative factors be considered, and that fair and reasonable amounts be negotiated which give the contractor a profit objective commensurate with the nature of the work to be done, the contractor's input to the total performance, and the risks assumed by the contractor. The profit evaluation criteria which follow were developed for use by the EPA in order (i) to provide a standard method of evaluation, (ii) to insure consideration of all relative factors, (iii) to provide a basis for documentation and explanation of the profit negotiation objective, (iv) to allow contractors to earn profits commensurate with the assumption of risk, (v) to reward contractors who provide their own facilities, financing and personnel, and (vi) to reward contractors who undertake more difficult work requiring higher risks. Except as noted below, use of these guidelines is mandatory for establishing prenegotiation profit/fee objectives for all negotiated contracts where cost analysis is required (see FPR 1–3.807–2).

(2) *Exceptions.* (i) Under the following circumstances, other methods for establishing profit objectives can be used. Generally, it is expected that such methods will (*a*) provide the contracting officer with a technique that will insure consideration of the relative value of the appropriate profit factors described under "Profit Factors", and (*b*) serve as a basis for documentation of the objective. The circumstances are:

(*1*) Architect-engineering contracts;

(*2*) Personal or professional service contracts;

(*3*) Management contracts, e.g., for maintenance or operation of Government facilities;

(*4*) Termination settlements;

(*5*) Engineering services, labor-hour, time and material contracts which provide for payment on a man-hour, man-day or man-month basis, and where the contribution by the contractor constitutes the furnishing of personnel rather than the output of an integrated research, engineering, or manufacturing operation; and

(*6*) Cost-reimbursement construction contracts; and

(*7*) Cost-plus-award-fee contracts.

(ii) Under unusual circumstances, the Head of the Procuring Activity may specifically waive the requirement for the use of the guidelines. Such exceptions shall be justified in writing and authorized only in situations where the guidelines method is determined to be unsuitable.

(3) *Limitations.* In the event that any of the methods used would result in establishing a fee objective in violation of limitations established by statute or the FPR, the maximum fee objective shall be the percentage allowed pursuant to such limitations. No administrative ceilings on profits shall be established at any level below the Head of the Procuring Activity.

(b)(1) Profit factors: The factors set forth below and the weighted ranges listed after each factor shall be used in all instances where the profit is to be specifically negotiated.

CONTRACTOR'S INPUT TO TOTAL PERFORMANCE

	Weight range (percent)
Direct Materials:	
Purchases	1 to 4.
Subcontracts	1 to 5.
Equipment	1 to 2.
Engineering labor	8 to 15.
Engineering overhead	6 to 9.
Manufacturing labor	5 to 9.
Manufacturing overhead	4 to 7.
Consultants	2 to 5.
Other direct costs	1 to 3.
General and administrative expenses	5 to 8.
Contractor's assumption of contract cost risk	0 to 6.
Record of contractor's performance	−2 to +2.
Cost efficiency.	
Management.	
Extent of investment.	
Reliability of cost estimates.	
Inventive and developmental contributions.	
Timely performance.	
Small business participation.	
Labor surplus area participation.	
Extent of Government assistance.	
Effect of competition.	

(2) Using the above method, the contracting officer shall first measure the "Contractor's Input to Total Performance" by the assignment of a profit percentage within the designated weight ranges to each element of contract cost recognized by the contracting officer. Such costs are multiplied by the specific percentages, to arrive at specific dollar profits.

(3) After the contracting officer has computed a total dollar profit for the Contractor's Input to Total Performance, he shall divide this amount by the total recognized costs to determine the composite profit percentage for this factor. To this composite percentage, he shall then add the specific percentages, assigned for cost risk, and performance, to arrive at a total profit percentage. He shall then multiply the total recognized contract costs by this total profit percentage to determine the profit objective. It should be noted that the specific percentages assigned for cost risk, and performance are applied to total recognized costs in establishing the profit objective. EPA Form 1900–2 is to be used to facilitate the calculation of this profit objective.

(4) The weight factors shown are designed for arriving at profit or fee objectives for other than nonprofit and not-for-profit organizations. Adjustments as explained below are to be made to reflect differences between profit and nonprofit organizations.

(i) For purposes of this subparagraph, nonprofit and not-for-profit organizations are defined as those business entities organized and operated exclusively for charitable, scientific or educational purposes, no part of the net earnings of which inure to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda or otherwise attempting to influence legislation or participating in any political campaign on behalf of any candidate for public office, and which are exempt from Federal income taxation under section 501 of the Internal Revenue Code.

(ii) For contracts with nonprofit and not-for-profit organizations where fees are involved, the following adjustments are required:

(*a*) A special factor of −3 percent shall be assigned in all cases.

(*b*) The weighted ranges from "Record of Contractor's Performance" shall be halved, i.e., −1 percent to +1 percent rather than −2 percent to +2 percent.

(c) Assignment of values to specific factors:

(1) *General.* In making his judgment of the value of each factor, the contracting officer should be governed by the definition, description, and purpose of the factors together with considerations for evaluating them as set forth herein.

(2) *Contractor's input to total performance.* This factor is a measure of how much the contractor himself is expected to contribute to the overall effort necessary to meet the contract performance requirements in an efficient manner. This factor, which is apart from the contractor's responsibility for contract performance, takes into account what resources are necessary and what the contractor himself must do to accomplish a conversion of ideas and materials into the final item called for in the contract. This is a recognition that within a given performance output, or within a given sales dollar figure, necessary efforts on the part of individual contractors can vary widely in both value and quantity, and that the profit objective should reflect the extent and nature of the contractor's contribution to total performance. The evaluation of this factor requires an analysis of the cost content of the proposed contract as follows:

(i) *Direct materials (purchased parts, subcontracted items, and other material).* Analysis of these cost items shall include an evaluation of the managerial and technical effort necessary to obtain the required purchased parts, subcontracted items, and other materials. This evaluation shall include consideration of the number of orders and suppliers, and whether established sources are available or new sources must be developed. The contracting officer shall also determine whether the contractor will, for example, obtain the materials by routine orders or readily available supplies (particularly those of substantial value in relation to the total contract costs), or by detailed subcontracts for which the prime contractor will be required to develop complex specifications involving creative design or close tolerance manufacturing requirements. Consideration should be given to the managerial and technical efforts necessary for the prime contractor to administer subcontracts, and select subcontractors, including efforts to break out subcontracts from sole sources, through the introduction of competition. These determinations should be made for purchases of raw materials or basic commodities, purchases of processed material including all types of components of standard or near-standard characteristics, and purchases of pieces, assemblies, subassemblies, special tooling and other products special to the end-item. In the application of this criterion, it should be recognized that the contribution of the prime contractor to his purchasing program might be substantial. This might be applicable in the management of subcontracting programs involving many sources, involving new complex components and instrumentation, incomplete specifications, and close surveillance by the prime contractor's representative. Recognized costs proposed as direct material costs such as scrap charges shall be treated as material for profit evaluation. If intracompany transfers are accepted at price, in accordance with § 1–15.205–22(e) of this title, they should be excluded from the fee computation. Other intracompany transfers shall be evaluated by individual components of cost, i.e., material, labor and overhead. Normally, the lowest weight for direct material is 2 percent. A weighting of less than 2 percent would be appropriate only in unusual circumstances when there is a minimal contribution by the contractor in relation to the total cost of the material.

(ii) *Equipment.* It is the policy of the Agency to contract with individuals or firms who have special capabilities relative to the need of the EPA. These capabilities include personnel with particular skills, or talents, and facilities (plant and equipment) necessary to complete the contract objectives. For the purpose of profit/fee analysis, equipment includes purchased items which are not to be an integral part of the final product. It would generally consist of production or test equipment. Where the EPA has to provide equipment to the contractor either as Government furnished equipment or contractor acquired equipment, appropriate profit/fee adjustments are necessary. Generally a low weight range shall be assigned to the cost of such equipment (1–2 percent).

(iii) *Engineering labor and manufacturing labor.* Analysis of the engineering labor and manufacturing labor items of the cost content of the contract should include evaluation of the comparative quality and level of the engineering talents, manufacturing skills and experience to be employed. In evaluating engineering labor for the purpose of assigning profit dollars, consideration should be given to the amount of notable scientific talent or unusual or scarce engineering talent needed in contrast to journeyman engineering effort or supporting personnel. The diversity, or lack thereof, of scientific and engineering specialties required for contract performance and the corresponding need for engineering supervision and coordination should be evaluated. Similarly, the variety of manufacturing labor skills required and the contractor's manpower resources for meeting these requirements should be considered. For the purpose of profit/fee computation, manufacturing labor includes all nonprofessional labor, e.g. secretaries, technicians and carpenters, etc.

(iv) *Engineering overhead, manufacturing overhead, and general and administrative expenses.* (*a*) Where practicable, analysis of these overhead items of cost should include the evaluation of the make up of the expenses and how much they contribute to contract performance. This analysis should include a determination of the amount of labor within these overhead pools and how this labor would be treated if it were considered as direct labor under the contract. The allocable labor elements should be given the same profit consideration that they would receive if they were treated as direct labor. The other elements of these overhead pools should be evaluated to determine whether they are routine expenses such as utilities, depreciation, and maintenance, and hence given lesser profit consideration given the pools as a whole.

(*b*) It is not necessary that the contractor's accounting system break down

his overhead expenses within the classification of engineering overhead, manufacturing overhead, and general and administrative expenses. The contractor whose accounting system only reflects one overhead rate on all direct labor need not change his system to correspond with all the above classifications. Where practicable, the contracting officer in his evaluation of such a contractor's overhead rate should break out the applicable sections of the composite rate which could be classified as engineering overhead, manufacturing overhead and general and administrative expenses and follow the appropriate evaluation technique. When it is not practicable to evaluate the elements of the burden pool, the following rates should usually apply:

	Percent
Engineering overhead	7.5
Manufacturing overhead	5.5
Composite overhead	6.5
G & A	6.5

(c) It is not necessary for the contracting officer to make a separate profit evaluation of overhead expenses in connection with each procurement action for substantially the same product with the same contractor. Once an analysis of the profit weight to be assigned the overhead pool has been made, the weight assigned may be used for future procurements with the same contractor until there is a change in the cost composition of the overhead pool or the contract circumstances.

(v) *Consultants.* Consultant costs, whether related to an individual consultant or consulting firm should be analyzed from the standpoint of what talents and skills the consultants have and how they will be used on the contract. The analysis should consider if the contractor normally should be expected to have people with comparable expertise employed as full-time staff or if the contract requires skills not normally available on an employer-employee relationship. Where the contractor is using consultants to perform services which could normally be expected to be done in-house, the rating factor should be generally below 2–3 percent. Where noted experts are retained for consultation on the contract, the rating will generally be higher.

(vi) *Other direct costs.* Items of costs, such as travel, subsistence, printing and computers should generally be assigned a rating of 1 to 3 percent. The analysis of these costs should be similar to the analysis of direct materials.

(3) *Contractor's assumption of contract cost risk.* (i) It is the policy of the Administration to shift the risk of contract costs to the fullest extent practicable to contractors and to compensate them for the assumption of this risk. Evaluation of this risk requires a determination of (*a*) the degree of cost responsibility the contractor assumes, (*b*) the reliability of the cost estimates in relation to the task assumed, and (*c*) the chance of the contractor's success or failure. This factor is specially limited to the risk of contract costs. Thus, such risks of losing potential profits in other fields, are not within the scope of this factor.

(ii) The first and basic determination of the degree of cost responsibility assumed by the contractor is related to the sharing of total risk of contract cost by the Government and the contractor through the selection of contract type. The extremes are a cost-plus-fixed-fee contract requiring only that the contractor use his best efforts to perform a task, and a firm-fixed-price contract for a complex item. Such cost-plus-fixed-fee contract would reflect a minimum assumption of cost responsibility, whereas such firm-fixed-price contract would reflect a complete assumption of cost responsibility. Therefore, in the first step of determining what value is to be given for the contractor's assumption of contract cost risk, a zero rating shall be given to a proposed cost-plus-fixed-fee best efforts contract, and a higher rating shall be given to a closely priced firm-fixed-price contract for a new, complex item.

(iii) The second determination is that of the reliability of the cost estimates. Sound price negotiation requires well-defined contract objectives and reliable cost estimates. An excessive cost estimate reduces the possibility that the cost of performance will exceed the contract price, thereby reducing the contractor's assumption of contract cost risk.

(iv) The third determination is that of the difficulty of the contractor's task. The contractor's task can be difficult or easy, regardless of the type of contract.

(v) Contractors are likely to assume greater cost risks only if the contracting officers objectively analyze the risk incident to proposed contracts and are willing to compensate contractors for it. Generally, a cost-plus-fixed-fee contract would not justify a reward for risk in excess of 1 percent, nor would a firm-fixed-price contract justify a reward of less than 4 percent. Where proper contract type selection has been made, the reward for risk by contract type would usually fall into the following percentage ranges:

Type of contract:	*Percentage ranges*
Cost-plus-fixed-fee	0 to 1.
Cost-plus-incentive-fee including cost incentives only	1 to 2.
Cost-plus-incentive-fee including cost, performance, and delivery incentives	2½ to 3.
Fixed-price-incentive including cost incentives only	2 to 4.
Fixed-price-incentive including cost, performance, and delivery incentives	3 to 5.
Prospective price determination	4 to 5.
Firm-fixed-price	4 to 6.

(*a*) These ranges may not be appropriate for all procurement situations. For instance, a fixed-price-incentive contract which is closely priced with a low ceiling price and a high incentive share may be tantamount to a firm-fixed-price contract. In this situation, the contracting officer might determine that a basis exists for high confidence in the reasonableness of the estimate, and that little opportunity exists for cost reduction without extraordinary efforts. The contractor's willingness to accept ceilings on their burden rates should be considered as a risk factor for cost-plus-fixed-fee contractors.

(*b*) In making a contract cost risk evaluation in a procurement action that involves definitization of a letter contract, consideration should be given to the effect on total contract cost risk as a result of having partial performance under a letter contract. Under some circumstances it may be reasoned that the total amount of cost risk has been effectively reduced by the existence of a letter contract. Under other circumstances, it may be apparent that the contractor's cost risk remained substantially as great as though a letter contract had not been used. Where a contractor has begun work under an anticipatory cost letter, the risk assumed is greater than the normal situation. To be equitable the determination of a profit weight for application to the total of all recognized costs, both those incurred and those yet to be expended, must be made with consideration to all attendant circumstances, not just to the portion of costs incurred or percentage of work completed, prior to definitation.

(4) *Record of contract performance.* (i) The purpose of this factor is to motivate contractors to improve their performance by rewarding them for excellent past performance and penalizing them for poor performance. Effective use of this factor requires that (a) reports on the various aspects of past performance be obtained and evaluated; and (b) this information be used in such a way as to motivate contractors to improve their performance.

(ii) The evaluation of a particular contractor's past performance and the importance placed upon the various subfactors listed below should be done in such a way as to motivate the contractor to improve his performance. For instance, it might be pointless, in evaluating the performance of an autonomous division of a multidivisional contractor, to place emphasis on the performance of another autonomous division. Under such circumstances, management of the division being evaluated might have no means of controlling the performance of the other division; therefore, emphasis on this performance by assigning a plus or minus rating to this factor might have a negative affect upon motivation to improve.

(iii) The weight to be assigned to this factor is arrived at on a judgment basis rather than an arithmetical averaging of weights assigned to all factors, depending upon the particular procurement situation, and the relative importance of the various factors. For example, an evaluation of a particular contractor may indicate that his performance was satisfactory in most areas, except that he showed a preference for doing all work in-house and a disinclination to support Government small business objectives. In such a case the contracting officer may feel that the importance of

these factors might justify the assignment of a lower overall rating for the record of past performance.

(iv) As stated above, the purpose of this factor is to reward a contractor for excellent past performance and penalize him for poor performance. Therefore, performance which is rated as merely satisfactory should generally be assigned to weight of zero. However, a contractor who has consistently met contractual requirements may be awarded a plus.

(v) The following factors are to be considered in evaluating a contractor's performance record:

(*a*) Cost efficiency: Low cost performance reflecting economic use of facilities and manpower, sound purchasing methods and subcontracting procedures, and effective inventory control are criteria for consideration. Improvement in efficiency through investment in plant modernization, past efficiencies, or lack thereof, effectiveness of the contractor's make-or-buy program, purchasing and subcontracting system and inventory control should be evaluated.

(*b*) Management: Stability and competence of management personnel, their willingness and ability to adjust company resources to meet peculiarly difficult and changing control requirements are criteria for consideration. The degree of cooperation by the contractor, both business and technical, with the objectives of the Government should be considered.

(*c*) Extent of the contractor's investment: The extent of a contractor's total investment (i.e., both equity and borrowed capital) in the performance of the contract will be taken into consideration in determining the amount of the fee or profits.

(*d*) Reliability of cost estimates: Accuracy and reliability of previous cost estimates should be considered. Where substantial overruns have occurred, the contracting officer should attempt to determine the reasons.

(*e*) Inventive and developmental contributions: Extent and nature of contractor-initiated and financed research, development, design work, product engineering, quality control, and manufacturing processes and techniques in the areas of concern to the EPA should be analyzed.

(*f*) Timely performance: The contractor's performance record, considering excusable delays and the contractor's efforts to overcome delays, should be analyzed.

(*g*) Small business participation: The contractor's policies and procedures which energetically support Government small business programs pursuant to § 1–1.710–1 of this title should be given favorable consideration. Any unusual effort which the contractor displays in subcontracting with small concerns, particularly for development type work likely to result in later production opportunities, and overall effectiveness of the contractor in subcontracting with and furnishing assistance to small concerns should be considered. Conversely, failure or willingness on the part of the contractor to support Government small business policies should be viewed as evidence of poor performance for the purpose of establishing a profit objective.

(*h*) Labor surplus area participation: A similar review and evaluation (as required in (*g*) of this subdivision) should be given to the contractor's policies and procedures supporting the Government's Labor Surplus Area Program pursuant to § 1–1.805–1 of this title. Particular favorable consideration should be given to a contractor who (*1*) makes a significant effort to help find jobs and provide training for the hardcore unemployed, or (2) promotes maximum subcontractor utilization of certified-eligible concerns, as defined in § 1–1.801–1 of this title.

(*i*) Extent of Government assistance: The Government encourages its contractors to perform their contracts with the minimum of financial, facilities, or other assistance from the Government. Where extraordinary financial, facilities, or other assistance must be furnished to a contractor by the Government, such extraordinary assistance should have a modifying effect in determining what constitutes a fair and reasonable profit or fee.

(*j*) Effect of competition: When competition is effective and proposals are on a firm-fixed-price basis, the contracting officer normally need not consider in detail the amount of estimated profit included in a price. When effective competition is lacking, and in all cases where cost analysis is performed in accordance with § 1–3.807–2(c) of this title the estimate for profit, target profit or fee, or the proposed fixed fee should be analyzed in the same manner as all other elements of price.

[FR Doc.71–10939 Filed 7–30–71;8:46 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 19142; FCC 71–767]

CHILDREN'S TELEVISION PROGRAMS

Order Further Extending Time for Filing Reply Comments

In the matter of petition of Action for Childrens Television (ACT) for rulemaking looking toward the elimination of sponsorship, and commercial content in children's programing and the establishment of a weekly 14-hour quota of children's television programs, RM–1569.

1. Action for Children's Television (ACT) has requested that the time to file reply comments be extended to and including October 2, 1971. Comments in this proceeding were originally to have been filed by May 3 and June 1, 1971, respectively. Because of the number of comments and reply comments due at about the same time in other rule making proceedings, these dates were extended to July 2 and August 2, 1971; see order, adopted April 14, 1971 (FCC 71–426).

2. ACT, in support of its request for the extension received July 21, 1971, states that the Notice of Inquiry and Notice of Proposed Rule Making, adopted January 20, 1971, 28 FCC 2d 368 (1971), has elicited "an enormous number of comments", many accompanied by "studies, charts and other compilations of data, not all of which are on a consistent basis", and "the volume is so great [that] it will not be possible [for ACT] to reply in the time presently scheduled." ACT also states that "its own program analysis" will not be completed in form for submission to the Commission by August 2.

3. It would appear that good cause has been shown by ACT as to reasons why the date for reply comments should be extended. While we previously indicated our reluctance to extend the time for comments and reply comments for the full period requested by others (see Order, adopted April 14, 1971), ACT, as the petitioner, stands in a somewhat different position.

4. In view of the foregoing: *It is ordered*, That, pursuant to authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, the date for reply comments in Docket 19142, is extended, for an additional 60 days to and including October 1, 1971; that the Motion for Extension of Time of Action for Children's Television is granted to the extent indicated and in all other respects is denied.

Adopted: July 27, 1971.

Released: July 27, 1971.

FEDERAL COMMUNICATIONS COMMISSION [1]

[SEAL] BEN F. WAPLE, *Secretary.*

[FR Doc.71–10991 Filed 7–30–71;8:51 am]

[47 CFR Part 83]

[Docket No. 19253]

SHIP RADAR STATIONS

Clarification and Improvement of Servicing Requirements; Order Extending Time for Filing Comments

In the matter of amendment of § 83.164 of the rules to clarify and improve requirements concerning servicing of ship radar stations.

1. The above-captioned Notice of Proposed Rulemaking (36 F.R. 10807) (FCC 71–554) which was released May 28, 1971, provided for the submission of comments on or before July 13, 1971. The National Marine Electronics Association, Inc., has filed a request for extension of time within which to file comments.

2. The petitioner requests an extension of 15 days on the grounds that it wishes to further document its comments through its membership which is widely dispersed throughout the Nation.

[1] Commissioners Bartley and Johnson absent.

3. The Commission is mindful of the problems associated with preparing and coordinating comments from the membership of such an association especially in cases, such as this, which require a detailed examination of possible effects on those affected. A 15-day extension will not unduly delay this proceeding. The additional time appears warranted. In view of the foregoing: *It is ordered*, That the time for filing comments in this proceeding is extended to August 6, 1971, and the time for filing reply comments is extended to August 20, 1971.

4. This action is taken pursuant to authority contained in sections 4(i) and 5(d)(1) of the Communications Act of 1934, as amended, and § 0.331(b)(4) of the Commission's rules.

Adopted: July 16, 1971.

Released: July 20, 1971.

[SEAL] JAMES E. BARR,
Chief, Safety and Special Radio Services Bureau.

[FR Doc. 71-10992 Filed 7-30-71;8:51 am]

DEPARTMENT OF THE INTERIOR

Oil Import Administration

[32A CFR Ch. X]

[Oil Import Regulation I (Rev. 5)]

ADDITIONAL ALLOCATIONS OF CRUDE OIL TO REFINERS, DISTRICTS I–IV

Notice of Proposed Rule Making

At the commencement of the 1971 allocation period 56,000 barrels daily of oil imports were withheld from allocation in Districts I–IV as a reserve for contingencies. Also, estimates were made of quantities that would be allocated under various other provisions of the regulations; however, actual allocations did not equal the estimated quantities. As a result 75,000 barrels daily of imports averaged over the allocation period are now available for allocations in Districts I–IV. Having taken consideration of recent increases in the capacity of international pipelines for the delivery of oil from Canada to the United States, a portion of this unallocated oil will be distributed to importers of Canadian oil. Had this quantity been allocated, it would have been allocated to refiners in Districts I–IV; therefore, it is proposed to allocate this 75,000 barrels daily in the manner described below. Final action upon this proposal will be subject to the concurrence of the Director, Office of Emergency Preparedness.

(a) The Administrator, Oil Import Administration, will allocate in Districts I–IV the following additional quantities of imports of crude oil (which are expressed in average barrels daily for the allocation period): 50,000 b/d of imports of crude oil among holders of allocations made for the current allocation period under section 10 of Oil Import Regulation 1 (Revision 5). 25,000 b/d of Canadian imports among holders of allocations made for the current allocation period under section 23 of Oil Import Regulation 1 (Revision 5), exclusive of persons who have relinquished such allocations.

(b) An additional allocation to a holder of an allocation made under section 10 for the current allocation period will be computed by multiplying the amount of his current allocation by 8.444 percent. This factor represents the ratio between the additional quantity (50,000 b/d) available for allocation and the quantity (592,000 b/d) initially allocated under section 10

$$\left(\frac{50{,}000}{592{,}000}=0.08444\right).$$

Unfinished oils may be imported under an additional allocation, but imports of such oil may not exceed 15 percent of the allocation.

(c) An additional allocation to the holder of an allocation made under section 23 for the current period, exclusive of persons who have relinquished such allocations, will be computed by multiplying the amount of his current qualified inputs by 0.9588 percent. This factor represents the ratio between the quantity (25,000 b/d) available for allocation and the total qualified inputs (2,607,300 b/d), reported by persons eligible for additional allocations

$$\left(\frac{25{,}000}{2{,}607{,}300}=0.009588\right).$$

Except that the date for relinquishment will be September 15, 1971, the provisions of paragraph (h) of section 23 will apply to additional allocations made to persons holding allocations under that section.

(d) All provisions of Oil Import Regulation 1 (Revision 5), as amended, not inconsistent with this proposal will be applicable in connection with the additional allocations made in accordance with this proposal.

A shorter period than usual is prescribed for the submission of comments because additional allocations should be made promptly to enable arrangements for importing to be made. Interested persons are invited to submit written comments upon the proposal to the Administrator, Oil Import Administration, Department of the Interior, Washington, D.C. 20240, by August 10, 1971. Each person who submits comments is asked to provide fifteen (15) copies.

D. V. PERRY,
Acting Administrator.

JULY 30, 1971.

[FR Doc.71-11119 Filed 7-30-71;10:58 am]

Notices

DEPARTMENT OF THE TREASURY

Office of the Secretary

ENVIRONMENTAL IMPACT STATEMENTS

Procedures for Preparation and Coordination

Authority. The following procedures are established, after consultation with the Council on Environmental Quality, in accordance with the requirements of section 102(2)(C) of the National Environmental Quality Act of 1969, Public Law 91–190 (42 U.S.C. 4332(2)(C)), section 2 of Executive Order 11514 and section 3 of the guidelines for statements of proposed Federal action affecting the environment promulgated by the Council on Environmental Quality, April 23, 1971, 36 F.R. 7724, hereby incorporated by reference and hereafter referred to as the CEQ Guidelines. Since these procedures constitute a general statement of policy, notice and public procedure under 5 U.S.C. 553 is unnecessary.

Scope. These procedures apply to the recognition of the need for environmental impact statements, the preparation of such statements, and their review within the Treasury Department. They relate to environmental impact statements prepared and circulated after June 30, 1971. After that date the interim procedures provided under Administrative Circular No. 200 dated May 19, 1970, are superseded. All bureaus, offices and services of the Department, hereafter referred to as bureaus, are required to follow these procedures in developing environmental impact statements. These procedures are to be applied in the light of the definitions and instructions in the CEQ Guidelines.

Content. The procedures herein provide for the:

(1) Designation of the officials responsible for environmental impact statements.

(2) Identification of the departmental or bureau actions requiring environmental impact statements, the time scheduling for consultations required by section 102(2)(C) of the Act, and the departmental review process for which environmental statements are to be available.

(3) Obtaining of the information required in the preparation of environmental impact statements.

(4) Consultation with and taking account of the comments of appropriate Federal, State, and local agencies, including the Administrator of the Environmental Protection Agency as to the environmental impact of the matter under section 309 of the Clean Air Act, as amended (42 U.S.C. 1857h–7), and section 8 of the CEQ Guidelines.

(5) Making of suitable arrangements for timely public information, as required by section 2(b) of Executive Order 11514 on departmental plans and programs with environmental impact, including procedures responsive to section 10 of the CEQ Guidelines relating to (a) the use of environmental impact statements in departmental policy and action review processes, (b) the appropriate distribution of environmental impact statements, and (c) the availability to the public of environmental impact statements and comments received thereon.

1. *Designation of responsible officials.* (a) Each bureau is directed to designate an official for continuing responsibility for identifying bureau actions requiring an environmental impact statement; making sure that the required statement is prepared timely and with the prescribed content by appropriate staff members; and maintaining compliance with all related procedures in accordance with the applicable time schedule. Basic staff responsibility for these functions will rest with this official, who may be designated the Environmental Quality Officer. He will be expected also to keep key officials in his bureau informed of current developments in environmental policy and programs as they relate to bureau activities and responsibilities under the National Environmental Policy Act. He will also be expected to maintain effective communication and consultation with the Environmental Quality Officer for the Department.

(b) Ultimate bureau responsibility for the preparation and transmittal or circulation of environmental impact statements shall rest with the head of the bureau with jurisdiction over the action or policy area in question.

(c) The Departmental Environmental Quality Officer in the Office of the Secretary shall be the liaison official with the Council on Environmental Quality and the officer to receive and coordinate comments on environmental statements submitted to the Department by other agencies. All statements to be transmitted to the Council or circulated to other agencies for comment are to be cleared through the Office of the Secretary.

(d) Coordination of the assessment of the environmental impact of actions in various areas of Treasury policy and operations and the preparation of environmental impact statements will be achieved, in consultation with the Environmental Quality Officer, by the offices having assignments of broad areas of primary responsibility, as follows:

Action area	*Office with coordinating responsibility*
Administration of facilities, physical operations, procurement, contracts, leases, etc.	Assistant Secretary for Administration.
Tax policy recommendations, legislation, and regulations.	Assistant Secretary for Tax Policy.
Nontax legislative recommendations and reports.	General Counsel.

(e) Subject to the basic guidelines applicable to departmental procedures generally, the Internal Revenue Service will assume responsibility and follow its own separate procedures with respect to environmental impact statements required in connection with its operations and tax administration functions, other than those required in the development of tax legislative proposals, tax regulations, or related tax legislation, which are within the responsibility of the Assistant Secretary for Tax Policy.

2. *Identification of actions requiring environmental impact statements.* (a) All employees of each bureau with responsibility for actions potentially affecting the environment are to be informed of the requirements of this departmental procedure. As early as possible and in all cases prior to the decision to take the action, the environmental implications of the action are to be explored. Early notification shall be given to the Environmental Quality Officer, and a determination shall be made in consultation with him, and if need be, with the Departmental Environmental Quality Officer and other Federal and State agencies as to the environmental effects of the action and the consequent need or absence of need to submit an environmental statement in connection with it.

(b) A basic guide to the wide range of actions calling for an environmental statement, and the criteria for determining which actions involve a significant impact on the environment are provided by section 5 of the CEQ Guidelines. The basic national environmental policy considerations are set forth in section 101 of Public Law 91–190, 42 U.S.C. 4331.

(c) Technical knowledge and thoughtful insight into possible environmental consequences are essential to effective screening of action decisions. If there is any doubt as to the possible environmental significance of any action, agencies with expertise in the area should be consulted. Agencies with special environmental expertise are listed in Appendix II of the CEQ Guidelines.

3. *Time scheduling.* (a) The timing of the preparation, circulation, submission, and public availability of environmental

impact statements is of vital importance, and all Environmental Quality Officers and heads of bureaus shall observe to the maximum extent possible the minimum time schedules set forth in sections 7, 8(b), and 10 (b) and (e) of the CEQ Guidelines.

(b) In general, these time schedules require observance of the following time periods:

(1) Not less than 30 days for interagency comment on draft statements, subject to a possible extension of up to 15 days (section 7);

(2) Not less than 45 days for review by the Environmental Protection Agency where such review is appropriate (section 8(b));

(3) Not less than 90-day and 30-day periods, respectively, for public availability of draft and final statements prior to administrative actions (section 10(b));

(4) Not less than 15 days for public availability prior to relevant hearings on proposed administrative actions, with certain exceptions (section 10(e)).

4. *Departmental "review process".* Environmental impact statements are to be utilized with the greatest effectiveness possible in the process of assessing and reviewing proposed departmental policies, programs, and projects. All bureaus will take particular care in determining at what stage or stages of a series of actions relating to a particular matter the environmental impact statement procedures covered by this directive shall be applied. As stated in section 10(a) of the CEQ Guidelines, a general principle to be applied is to obtain the views of other agencies at the earliest feasible time in the development of program or project proposals. Feasibility in timing here depends in part on the timing of the formulation of the substantive essentials of the proposal required for an appraisal of environmental consequences. Duplication in the clearance process should be avoided, but significant changes or redirections of the proposal may call for further environmental analysis.

5. *Interim EPA procedures under the Clean Air Act.* (a) The attention of all bureaus and Environmental Quality Officers is specifically directed to section 8 of the CEQ Guidelines which, pursuant to section 309 of the Clean Air Act (42 U.S.C. 1857h-7) requires that advance comment from the Environmental Protection Agency is to be requested on proposed legislation, regulations, new construction projects, and major actions significantly affecting the environment in areas of jurisdiction of the Environmental Protection Agency. These areas include: Air and water quality, solid waste disposal, pesticides, radiation standards, and noise abatement and control. At least 45 days are to be allowed for this review.

(b) Where the bureau or department is filing an environmental impact statement with EPA for comment, no special additional procedure is required. Proposed legislation or regulations, however, in areas of EPA jurisdiction must be referred to EPA for comment, even if no environmental impact statement under section 102(2)(C) is to be filed. The latter requirement does not apply to litigation and enforcement proceedings.

6. *Obtaining information required in preparation of environmental impact statement.* (a) The full resources of the Department should be tapped in developing the factual and analytic information and reference sources required in the preparation of an environmental impact statement. In the great majority of instances, however, the assistance of other agencies with legal jurisdiction or special expertise in the particular environmental impact area should be sought. See section 2(c) above, and section 7 and Appendix II of the CEQ Guidelines which list the agencies to be consulted, with sublistings by legal jurisdiction or area of special expertise on environmental impacts.

(b) If bureau Environmental Quality Officers have difficulties in securing needed information or need guidance in making the necessary analysis they should consult with the Departmental Environmental Quality Officer, who will stand ready to give technical assistance or advice to the extent of his capability. He will also assist the bureaus in locating needed information through appropriate staff members of the Council on Environmental Quality and the Office of Management and Budget.

7. *Comments of Federal, State, and local agencies.* It is essential that the bureaus consult with and take account of the comments of appropriate Federal, State, and local agencies. The procedures set forth in Office of Management and Budget Circular No. A-95 for obtaining State and local comments through clearing houses should be utilized. This consultation may take the form of informal fact finding and analytic advice in the preparation of environmental impact statements, as discussed under section 6 above. At a later stage in the review of such a statement consultation will involve the formal solicitation of review and comments on the draft statement.

8. *Content of environmental impact statements.* (a) Environmental impact statements are to provide adequate, meaningful, factual information and analysis to permit an evaluation of the action from the environmental standpoint. Perfunctory generalities are not acceptable. Quantitative information and actual or estimated figures on the proposed action and its probable effects should be included to the furthest extent practicable. Where a cost-benefit analysis of the proposed action has been prepared, this analysis should be attached to the environmental impact statement sent to the commenting agencies and to the Council on Environmental Quality and made available to the public.

(b) The basic content requirements of a statement are set forth in section 6 of the CEQ Guidelines. Draft statements by all bureaus should follow the prescribed outline and content requirements as closely as is feasible. In particular, bureaus should observe the requirements for:

(i) An adequate description of the proposed action to permit intelligent assessment by agencies asked to comment;

(ii) Systematic examination of the various probable environmental and resource effects of the proposal, with required information on alternatives;

(iii) A summary sheet to accompany each draft and final environmental impact statement, following the form prescribed in section 6(e) and Appendix I of the CEQ Guidelines.

(c) Ten copies of each draft or final statement and the comments received thereon are to be filed with the Council on Environmental Quality, Executive Office of the President.

9. *Additional guidelines.* In addition to the CEQ Guidelines, the instructions in the following documents issued by the Office of Management and Budget will be complied with when applicable:

(a) Bulletin No. 71-3 "Proposed Federal actions affecting the environment," in the preparation of legislative proposals and budget estimates.

(b) Circular No. A-95, Revised, "Evaluation, review, and coordination of Federal and federally assisted programs and projects," (see section 7 of these procedures).

10. *Public information: Availability of environmental impact statements to the public.* (a) Environmental impact statements, both draft and final, and any comments thereon by interested agencies shall be made available to the public pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Department's regulations thereunder (31 CFR Part 1). These documents are to be maintained in the public reading room in the Treasury Library in the Main Treasury Building in Washington, D.C., and may be read or copied during working hours.

(b) The attention of members of the public seeking copies of environmental impact statements may be called to the publication service of the National Technical Information Service of the Department of Commerce, which has been officially designated as the "Publisher" of Environmental Impact Statements. Beginning on July 1, 1971, this Service will offer for sale to the public the environmental impact statements of all Federal agencies. This new service will be a convenience to all citizens who wish to be informed of or purchase such statements. Orders may be placed with the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151.

Effective date. These regulations are effective as of July 1, 1971.

Dated: July 30, 1971.

[SEAL] ERNEST C. BETTS, Jr.,
Assistant Secretary for Administration.

[FR Doc.71-11096 Filed 7-30-71;9:58 am]

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

[DOD Directive 5105.37]

OFFICE OF THE DIRECTOR OF OCEAN AFFAIRS

Establishment

JULY 15, 1971.

The Deputy Secretary of Defense approved the following on July 15, 1971:

I. *General.* Pursuant to the authority vested in the Secretary of Defense under the provisions of title 10, United States Code, as amended, an Office of the Director of Ocean Affairs is hereby established with responsibilities, functions, relationships and authority prescribed below.

II. *Responsibilities.* The Director of Ocean Affairs is the principal staff adviser and coordinator for the Secretary of Defense for Oceans Affairs.

III. *Functions.* Under the direction, authority and control of the Secretary of Defense, the Director of Ocean Affairs shall perform the following functions in his assigned field of responsibility.

A. Recommend policies on ocean affairs to the Secretary.

B. Prepare DOD positions for international conferences concerned with issues within his responsibility. In particular, he shall have responsibility for the conduct of all actvities of the DOD which directly involve preparation for the 1973 Law of the Sea Conference.

C. Provide DOD representation in all interdepartmental meetings and international negotiations concerning ocean affairs. This paragraph does not supersede representational arrangements pertaining to the statutory responsibilities of the Joint Chiefs of Staff.

D. Coordinate all matters within the DOD which may impact on the development of international law for ocean space.

E. Maintain direct liaison with the Assistant Secretary of Defense (International Security Affairs) and the Chairman, Joint Chiefs of Staff, respectively, through Deputies assigned by them. Such deputies shall serve as policy advisors to the Director of Ocean Affairs and shall be authorized to attend all interdepartmental meetings of a policy-making nature and international negotiations. In such meetings or negotiations, the Director of Ocean Affairs or his designee shall be the sole spokesman for the Department of Defense.

IV. *Relationships.* A. In the performance of his functions, the Director of Ocean Affairs shall (1) coordinate with the Defense Advisory Group on Law of the Sea (DAGLOS) and other DOD activities having related interest in the field of his assigned responsibility, (2) maintain active liaison for the exchange of information and advice with the appropriate DOD components, and (3) fully utilize established DOD facilities.

The DAGLOS is composed of representatives of the Office of the Assistant Secretary of Defense (ISA), the General Counsel, the Departments of the Army, Navy, and Air Force, and the Joint Chiefs of Staff. The DAGLOS will be under the Chairmanship of the Staff Director, Office of Ocean Affairs. Other affected defense elements may nominate members to the DAGLOS as necessary and appropriate.

B. The Secretaries of the Military Departments, Directors of Defense Agencies and civilian assistants and the military personnel in such Departments shall insure that the Director of Ocean Affairs and his staff are consulted with respect to any activities coming within their jurisdiction which may bear on the responsibilities and functions of the Director of Ocean Affairs. In addition, they shall fully cooperate with the Director of Ocean Affairs and his staff to carry out effectively the functions of the Office of Ocean Affairs under the direction, authority, and control of the Secretary of Defense.

V. *Authority.* A. The Director of Ocean Affairs, in the course of exercising full staff functions, is hereby specifically delegated authority to:

1. Issue instructions and one-time directive-type memoranda, in writing, appropriate to carrying out policies approved by the Secretary of Defense for his assigned field of responsibility in accordance with DOD Directive 5025.1.

2. Obtain such reports and information and assistance from the Military Departments and other DOD agencies as may be necessary to the performance of his assigned functions.

3. Communicate with other Government agencies, representatives of the legislative branch, and members of the public as appropriate, in carrying out assigned functions.

B. Make requests to the Chairman of the Joint Chiefs of Staff for Joint Chiefs of Staff action or advice on matters in the Director of Ocean Affairs' assigned field of responsibility.

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

[FR Doc.71-10945 Filed 7-30-71;8:47 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

OUTER CONTINENTAL SHELF OFFSHORE EASTERN LOUISIANA

Environmental Impact Statement Regarding Possible Oil and Gas Lease Sale

JULY 29, 1971.

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental impact statement relating to a possible Outer Continental Shelf general oil and gas lease sale. The environmental statement involves the possible leasing of 86 tracts of submerged lands on the Outer Continental Shelf in the Gulf of Mexico offshore eastern Louisiana.

The draft environmental statement is available for public review in the Office of the Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management, Post Office Box 53226, New Orleans, LA 70153, and in the Office of Information, Bureau of Land Management (130), Washington, D.C. 20240. A limited number of copies are available for immediate purchase from these offices for $1 per copy. Additional copies are being printed and will be available at the same price from the same offices within 1 week from the date of publication of this notice. A public hearing is planned for September to consider the leasing proposal. A formal announcement of the hearing will be made in the near future. Anyone wishing to comment on the draft environmental statement should submit his comments in writing no later than 10 days following the public hearing to:

U.S. Department of the Interior, Director, Bureau of Land Management (310), Washington, D.C. 20240.

After all comments have been received and analyzed, a final environmental statement will be prepared.

BURTON SILCOCK,
Director,
Bureau of Land Management.

[FR Doc.71-11039 Filed 7-30-71;8:54 am]

[Wyoming 28908]

WYOMING

Notice of Proposed Withdrawal and Reservation of Lands

The Forest Service, U.S. Department of Agriculture, has filed an application, Serial No. Wyoming 28908, for the withdrawals of lands described below, from location and entry under the general mining laws, but not the mineral leasing laws, subject to valid existing rights.

The applicant wishes to assure tenure of the described lands which have value for public purposes and protection of valuable recreational improvements.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 2120 Capitol Avenue, Cheyenne, WY 82001.

The Department's regulations 43 CFR 2351.4(c) provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other

than the applicant's, to eliminate lands needed for purposes more essential than the applicants, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

SIXTH PRINCIPAL MERIDIAN, WYOMING

MEDICINE BOW NATIONAL FOREST

Wyoming State Highway No. 230 Roadside Zone

A strip of land 200 feet each side of the centerline of State Highway No. 230 through the following described lands:

T. 13 N., R. 77 W.,
Sec. 7, SE¼SE¼;
Sec. 8, S½;
Sec. 9, all;
Sec. 17, W½NW¼;
Sec. 18, E½;
Sec. 19, lot 6 except NE¼, lots 5, 8, and 9, and W½NE¼.
T. 12 N., R. 78 W.,
Sec. 4, W½NE¼, SE¼NW¼, SE¼SW¼, and NW¼SE¼;
Sec. 9, W½E½, E½W½, SW¼SW¼;
Sec. 17, W½SE¼SE¼NE¼, SW¼, and W½SE¼;
Sec. 18, SE¼SE¼;
Sec. 19, lots 1 to 4, inclusive.
T. 13 N., R. 78 W.,
Sec. 24, S½S½;
Sec. 25, N½NW¼;
Sec. 26, N½ and NW¼SW¼;
Sec. 27, S½;
Sec. 33, E½;
Sec. 34, NW¼NW¼.

Libby-Lewis Recreation Area

T. 16 N., R. 79 W.,
Sec. 17, W½W½NE¼, E½NW¼, SE¼SW¼NW¼, NE¼NW¼SW¼, N½NE¼SW¼, and NW¼NW¼SE¼.

SHOSHONE NATIONAL FOREST

Sulphur Camp Recreation Site

T. 54 N., R. 106 W. (Unsurveyed),
When surveyed will probably be in: sec. 8, SW¼NE¼, SE¼NW¼, NE¼SW¼, NW¼SE¼ except approximately 33 acres of patented lands of the Sulphur Mountain Placer, according to approved Protraction Diagram No. 2, Wyoming.

Crandall Administrative Site

T. 56 N., R. 106 W. (partial survey),
Sec. 9, S½NE¼NE¼, S½N½, N½S½, except portions of H.E.S. 51, H.E.S. 54, and H.E.S. 180.

The areas described aggregate 1,146 acres.

NYLES HUMPHREY,
Acting State Director.

[FR Doc.71-10960 Filed 7-30-71;8:48 am]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

POULTRY INSPECTION

Notice of Designation of Kentucky

Subsection 5(c) of the Poultry Products Inspection Act (21 U.S.C. 454(c)) required the Secretary of Agriculture to designate promptly after August 18, 1970, any State as one in which the requirements of sections 1–4, 6–10, and 12–22 of said Act shall apply to intrastate operations and transactions, and to persons engaged therein, with respect to poultry, poultry products and other articles subject to the Act, if he determined after consultation with the Governor of the State, or his representative, that the State involved had not developed and activated requirements at least equal to those under sections 1–4, 6–10, and 12–22, with respect to establishments within the State (except those that would be exempted from Federal inspection under subsection 5(c)(2) of the Act), at which poultry are slaughtered or poultry products are processed for use as human food, solely for distribution within such State, and the products of such establishments. However, if the Secretary had reason to believe that the State would activate the necessary requirements within an additional year, he could allow the State the additional year in which to activate such requirements.

The Secretary had reason to believe, after consultation with the Governor of the State of Kentucky, that the State would develop and activate the prescribed requirements by August 18, 1971, and accordingly allowed the State the additional period of time for this purpose. However, the Governor's representative has now advised the Secretary that the State of Kentucky will not be in a position to enforce such requirements. Therefore, notice is hereby given that the Secretary of Agriculture designates said State under subsection 5(c) of the Act. Upon the expiration of the 30 days after publication of this notice in the FEDERAL REGISTER, the provisions of sections 1–4, 6–10, and 12–22 of the Act shall apply to intrastate operations and transactions and persons engaged therein, in said State, to the same extent and in the same manner as if such operations and transactions were conducted in or for "commerce", within the meaning of the Act, and any slaughtering of poultry or processing of poultry products as described above must have Federal inspection or cease its operations, unless it qualifies for an exemption under subsection 5(c)(2) or section 15 of the Act.

Therefore, the operator of each such establishment in the State of Kentucky who desires to continue such operations after designation of the State becomes effective should immediately communicate with the Regional Director specified below:

Dr. George Harner, Director, Mid-Atlantic Region for Meat and Poultry Inspection Programs, Post Office Box 25231, Raleigh, NC 27611, telephone: AC 919/755-4220.

Done at Washington, D.C., on July 28, 1971.

RICHARD E. LYNG,
Assistant Secretary.

[FR Doc.71-10952 Filed 7-30-71;8:47 am]

POULTRY INSPECTION

Notice of Designation of Nebraska

Subsection 5(c) of the Poultry Products Inspection Act (21 U.S.C. 454(c)) required the Secretary of Agriculture to designate promptly after August 18, 1970, any State as one in which the requirements of sections 1–4, 6–10, and 12–22 of said Act shall apply to intrastate operations and transactions, and to persons engaged therein, with respect to poultry, poultry products and other articles subject to the Act, if he determined after consultation with the Governor of the State, or his representative, that the State involved had not developed and activated requirements at least equal to those under sections 1–4, 6–10, and 12–22, with respect to establishments within the State (except those that would be exempted from Federal inspection under subsection 5(c)(2) of the Act), at which poultry are slaughtered or poultry products are processed for use as human food, solely for distribution within such State, and the products of such establishments. However, if the Secretary had reason to believe that the State would activate the necessary requirements within an additional year, he could allow the State the additional year in which to activate such requirements.

The Secretary had reason to believe, after consultation with the Governor of the State of Nebraska, that the State would develop and activate the prescribed requirements by August 18, 1971, and accordingly allowed the State the additional period of time for this purpose. However, the Governor of the State of Nebraska has now advised the Secretary that the State will not be in a position to enforce such requirements. Therefore, notice is hereby given that the Secretary of Agriculture designates the State of Nebraska under subsection 5(c) of the Act. Upon the expiration of 30 days after publication of this notice in the FEDERAL REGISTER, the provisions of sections 1–4, 6–10, and 12–22 of the Act shall apply to intrastate operations and transactions and persons engaged therein, in said State, to the same extent and in the same manner as if such operations and transactions were conducted in or for "commerce," within the meaning of the Act, and any establishment in said State which conducts any slaughtering of poultry or processing of poultry products as described above must have Federal inspection or cease its operations, unless it qualifies for an exemption under subsection 5(c)(2) or section 15 of the Act.

Therefore, the operator of each such establishment in the State of Nebraska who desires to continue such operations after designation of the State becomes effective should immediately communicate with the Regional Director specified below:

Dr. M. J. Hatter, Acting Director, Central Region for Meat and Poultry Inspection Program, Room 905, U.S. Courthouse Building, 811 Grand Avenue, Kansas City, MO 64106, telephone: AC 816/374-2621.

Done at Washington, D.C., on July 28, 1971.

RICHARD E. LYNG,
Assistant Secretary.

[FR Doc.71-10953 Filed 7-30-71;8:48 am]

Packers and Stockyards Administration

KIRKSVILLE COMMUNITY SALE

Posted Stockyard

The stockyard formerly known as the Kirksville Community Sale, Kirksville, Mo., was originally posted on May 9, 1959, as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.). On July 7, 1971, there was published in the FEDERAL REGISTER a notice concerning the depositing of such stockyard for the reason that it was no longer being conducted as a public market. Subsequent to the publication of such notice and prior to the taking of the further steps required by section 302 (b) of the Act (7 U.S.C. 202 (b)) for the depositing of a stockyard, it was ascertained that operation of such livestock market, under the name of Kirksville Community Sale, would be continued as a stockyard within the definition of that term contained in section 302(a) of the Act (7 U.S.C. 202(a)).

Notice is hereby given, therefore, that the livestock market presently known as the Kirksville Community Sale, Kirksville, Mo., originally posted on May 9, 1959, remains posted as a stockyard within the definition of that term contained in section 302 of the Act and remains subject to the provisions of the Act.

Done at Washington, D.C., this 26th day of July 1971.

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

[FR Doc.71-10955 Filed 7-30-71;8:48 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. C-352]

EDWIN H. LEER

Notice of Loan Application

JULY 27, 1971.

Edwin H. Leer, 333 Paradise Road, Salinas, CA 93901, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a new steel vessel, about 42-foot in length, to engage in the fishery for salmon and albacore.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above-entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Interior Building, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

WILLIAM M. TERRY,
Acting Director.

[FR Doc.71-10957 Filed 7-30-71;8:48 am]

[Docket No. B-520]

JAMES F. LUMMIS, JR.

Notice of Loan Application

JULY 27, 1971.

James F. Lummis, Jr., 134 Cape Avenue, Cape May Point, NJ 08204, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used wood vessel, about 40-foot in length, to engage in the fishery for sea bass, cod, lobsters, sea trout, bluefish, and mackerel.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above-entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Interior Building, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

WILLIAM M. TERRY,
Acting Director.

[FR Doc.71-10958 Filed 7-30-71;8:48 am]

[Loan Case No. S-511]

SHERMAN W. SAPPINGTON

Notice of Transfer of Fishery

JULY 27, 1971.

Sherman W. Sappington, Post Office Box 561, Brookings, OR 97415, owner of the vessel *Faymar* purchased with the aid of a Fisheries Loan to engage in the fishery for Dungeness crab, shrimp, bottomfish, and albacore has requested permission to extend his fishing operations to engage in the fishery for Dungeness crab, shrimp, bottomfish, albacore, and salmon.

Notice is hereby given that the above request is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Interior Building, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operations of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

WILLIAM M. TERRY,
Acting Director.

[FR Doc.71-10959 Filed 7-30-71;8:48 am]

Office of Import Programs

DARTMOUTH COLLEGE

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

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

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00242-33-46040. Applicant: Dartmouth College, Hanover, N.H. 03755. Article: Electron microscope, Model Elmiskop 101. Manufacturer: Siemens A.G., West Germany.

Intended use of article: The article will be used for research concerning ribosomes, consisting of protein and ribonucleic acid; for studies on antibodies (convalently coupled to ferritin) against specific ribosomal proteins; and a number of macromolecules other than ribosomes will be studied to determine their structure, including RNA polymerase and aspartyl transcarbamylase.

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

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

Reasons: The foreign article has a specified resolving capability of 3.5 angstroms. The most closely comparable domestic instrument is the Model EMU-4B electron microscope which was formerly manufactured by the Radio Corp. of America and which is presently being supplied by the Forgflo Corp. The Model EMU-4B has a specified resolving capability of 5 angstroms. (The lower the numerical rating in terms of Angstrom units, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare in its memorandum dated February 26, 1971, that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the Model EMU-4B is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71-10963 Filed 7-30-71;8:48 am]

HARVARD UNIVERSITY

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

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

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00223-33-46040. Applicant: Harvard University, Purchasing Department, 75 Mount Aubur Street, Cambridge, MA 02138. Article: Electron microscope, Model 801. Manufacturer: Associated Electrical Industries, Ltd., United Kingdom.

Intended use of article: The article will be used for research in three areas, the cell junctions of the endothelium of small blood vessels, the gap intercellular junctions which possibly are involved in intercellular communication, and the structural basis of glomerular permeability.

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

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

Reasons: The foreign article is equipped with a tilt stage having a guaranteed resolving power of 5 angstroms. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forgflo Corp. (Forgflo). The Model EMU-4C can be equipped with a tilt stage but the guaranteed resolving power of this stage is 8 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving power.) We are advised by the Department of Health, Education, and Welfare in its memorandum dated January 22, 1971, that the guaranteed resolving power of the tilt stage of the foreign article is pertinent to the applicant's research studies. We, therefore, find that the Model EMU-4C electron microscope is not of equivalent scientfic value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71-10964 Filed 7-30-71;8:49 am]

UNIVERSITY OF PENNSYLVANIA

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

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

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of the Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00188-33-46040. Applicant: University of Pennsylvania School of Medicine, 36th and Hamilton Walk, Philadelphia, PA 19104. Article: Electron microscope, Model EM 9S. Manufacturer: Carl Zeiss, West Germany.

Intended use of article: The article will be used in studying the fine structure of cartilage and bone in epiphyseal plate growth and fracture healing. The article will also be used for educational purposes in Course No. 801 Biology of Skeletal Growth and Maturation and Course No. 802 Fracture Healing and Osseous Repair.

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

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

Reasons: The applicant requires an electron microscope which is suitable for instruction in the basic principles of electron microscopy. The foreign article is a relatively simple, medium resolution electrons microscope designed for confident use by beginning students with a minimum of detailed programing. The most closely comparable domestic instrument is the Model EMU-4B electron microscope which was formerly being manufactured by the Radio Corp. of America and which is currently being supplied by the Forgflo Corp. The Model EMU-4B electron microscope is a relatively complex instrument designed for research, which requires a skilled electron microscopist for its operation. We are advised by the Department of Health, Education, and Welfare, in its memorandum dated January 22, 1971, that the relative simplicity of design and ease of operation of the foreign article is pertinent to the applicant's educational purposes. We, therefore, find that the Model EMU-4B electron microscope is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc. 71-10965 Filed 7-30-71;8:49 am]

UNIVERSITY OF PENNSYLVANIA

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

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

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00189-33-46040. Applicant: University of Pennsylvania, School of Medicine, 36th and Hamilton Walk, Philadelphia, PA 19104. Article: Electron microscope, Model EM 9S. Manufacturer: Carl Zeiss, West Germany.

Intended use of article: The article will be used in studying the fine structure of cartilage and bone in epiphyseal plate growth and fracture healing.

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

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

Reasons: The applicant requires an electron microscope which is suitable for instruction in the basic principles of electron microscopy. The foreign article is a relatively simple, medium resolution electron microscope designed for confident use by beginning students with a minimum of detailed programing. The most closely comparable domestic instrument is the Model EMU–4B electron microscope which was formerly being manufactured by the Radio Corp. of America and which is currently being supplied by the Forgflo Corp. The Model EMU–4B electron microscope is a relatively complex instrument designed for research, which requires a skilled electron microscopist for its operation. We are advised by the Department of Health, Education, and Welfare in its memorandum dated January 22, 1971, that the relative simplicity of design and ease of operation of the foreign article is pertinent to the applicant's educational purposes. We, therefore, find that the Model EMU–4B electron miscroscope is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the Unite . States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71–10966 Filed 7–30–71;8:49 am]

MEDICAL UNIVERSITY OF SOUTH CAROLINA

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

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

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71–00209–33–46040. Applicant: Medical University of South Carolina, Department of Pathology, 37 Mill Street, Charleston, SC 29401. Article: Electron miscroscope, Model HS–8. Manufacturer: Hitachi, Ltd., Japan.

Intended use of article: The article will be used primarily for the training of undergraduate and graduate students in the techniques and applications of electron microscopy.

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

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

Reasons: The applicant requires an electron microscope which is suitable for instruction in the basic principles of electron microscopy. The foreign article is a relatively simple, medium resolution electron microscope designed for confident use by beginning students with a minimum of detailed programing. The most closely comparable domestic instrument is the Model EMU–4C electron microscope manufactured by the Forgflo Corp. The Model EMU–4C electron microscope is a relatively complex instrument designed for research, which requires a skilled electron microscopist for its operation. We are advised by the Department of Health, Education, and Welfare in its memorandum dated January 22, 1971, that the relative simplicity of design and ease of operation of the foreign article is pertinent to the applicant's educational purposes. We, therefore, find that the Model EMU–4C electron microscope is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71–10967 Filed 7–30–71;8:49 am]

UNIVERSITY OF WISCONSIN

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

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

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71–00211–33–46040. Applicant: University of Wisconsin, Meat and Animal Science, Muscle Biology Laboratory, Madison, Wis. 53706. Article: Electron microscope, Model HU–11DS. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used for an investigation of isolated muscle proteins; a morphological study of the nerve muscle interaction; and for research on the ultrastructural localization of glycogen phosphorylase.

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

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

Reasons: The foreign article has a specified resolving capability of 3.5 angstroms. The most closely comparable domestic instrument is the Model EMU–4B electron microscope which was formerly manufactured by the Radio Corp. of America and which is presently being supplied by the Forgflo Corp. The Model EMU–4B has a specified resolving capability of 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare in its memorandum dated January 22, 1971, that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We therefore find that the Model EMU–4B is not of equivalent scientific value to the foreign article for such purposes as article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71–10968 Filed 7–30–71;8:49 am]

UNIVERSITY OF WISCONSIN

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

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

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71–00280–33–46040. Applicant: University of Wisconsin, 750 University Avenue, Madison, WI 53706. Article: Electron microscope, Model EM 801. Manufacturer: Associated Electrical Industries, Ltd., United Kingdom.

Intended use of article: The article will be used for the examination of the mammalian central nervous system; the study of normal animals and those with specific operations or diseases; the determination of the manner in which nerve

cells of the brain are interconnected; and a study of ultrathin specimens of mammalian brain.

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

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

Reasons: The foreign article is equipped with a tilt stage having a guaranteed resolving power of 5 angstroms. The most closely comparable domestic instrument is the Model EMU–4C electron microscope manufactured by Forgflo Corp. (Forgflo). The Model EMU–4C can be equipped with a tilt stage but the guaranteed resolving power of this stage is 8 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving power.) We are advised by the Department of Health, Education, and Welfare in its memorandum dated February 26, 1971, that the guaranteed resolving power of the tilt stage of the foreign article is pertinent to the applicant's research studies. We, therefore, find that the Model EMU–4C electron microscope is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument of apparatus of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71–10969 Filed 7–30–71;8:49 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[DESI 7659]

OTC METHAPYRILENE-CONTAINING DRUGS FOR RELIEF OF INSOMNIA

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has considered a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on Dormin Capsules, containing methapyrilene hydrochloride, 25 mg.; marketed by Dormin, Inc., 1 Spring Street, Ossining, N.Y. 10562 (NDA 7–659).

The Academy evaluated Dormin Capsules as probably effective as an aid in the relief of insomnia and in the inducement of sleep.

The documentation on which the Academy relied was: Feinblatt, T. M., and E. A. Ferguson, Jr. Sedative and somnifacient effects of methapyrilene-niacinate: Comparison with methapyrilene hydrochloride in 53 cases. J. Amer. Geria. Soc. 11: 909–913, 1963; and Straus, B. J. Eisenberg, and J. Gennis. Hypnotic effects of an antihistamine-methapyrilene hydrochloride. Ann. Intern. Med. 42: 574–582, 1955.

There are numerous OTC products on the market which contain a methapyrilene salt as a single active ingredient or in combination with scopolamine, aspirin, acetaminophen, salicylamide, and other drugs and which are recommended for use for relief of insomnia or inducement of sleep.

A partial, but incomplete, list is as follows:

Compoz Tablets; Jeffrey Martin, Inc., 1020 Commerce Avenue, Union, N.J. 07083.

Mr. Sleep Tablets; Jeffrey Martin, Inc.

Neo-Nyte Capsules; BBC Labs., 700 North Sepulveda Boulevard, El Segundo, Calif. 90245.

Nods Capsules; The Carroll Chemical Co., 2301 Hollins Street, Baltimore, Md. 21223.

Nytol Capsules and Tablets; Block Drug Co., Inc., 257 Cornelison Avenue, Jersey City, N.J. 07302.

Proquil Capsules; Hance Bros. & White Co., 12th and Hamilton Streets, Philadelphia, Pa. 19123.

San-Man Tablets; Plough, Inc., 3022 Jackson Avenue, Memphis, Tenn. 38101.

Sleep Tablets; Drug Fair, Inc., 6315 Bren Mar Drive, Alexandria, Va. 22314.

Sleep-Eze Tablets; Whitehall Laboratories, Inc., 685 Third Avenue, New York, N.Y. 10017.

Somnicaps Capsules; American Pharmaceutical Co., 120 Bruckner Boulevard, Bronx, N.Y. 10454.

Somminex Capsules and Tablets; J. B. Williams Co., Inc., Pharmaceuticals Division, Cranford, N.J. 07016.

Somnatron Capsules; Dart Drug Corp., Landover, Md. 20785.

Sure-Sleep Tablets; American Labs., Division of Towne, Paulsen & Co., Inc., 140 East Duarte Road, Monrovia, Calif. 91016.

Tranquil-Aid Tablets; Thompson Medical Co., Inc., 79 Madison Avenue, New York, N.Y. 10016.

Asper-Sleep Tablets*; Yonkers Labs., Inc., 923 Old Nepperhan Avenue, Yonkers, N.Y. 10703.

Excedrin P.M. Tablets*; Bristol-Myers Co., 345 Park Avenue, New York, N.Y. 10022.

The Administration's evaluation of the efficacy and safety of such drugs will be made after the review of any pertinent data which may be submitted pursuant to this announcement.

All such products on the market will be affected by the conclusions of this reevaluation. Therefore, before the Administration reaches a conclusion concerning the effectiveness of such drugs, suppliers of over-the-counter preparations containing methapyrilene salts, with or without other active ingredients, and offered for such uses as insomnia relief of sleep induction, and any other interested persons, are invited to submit to the Food and Drug Administration, within 180 days following the date of publication of this announcement in the FEDERAL REGISTER (1) the quantitative composition and complete labeling for the drug, and (2) the best available evidence, other than the studies relied on by the Academy, supporting both the safety and effectiveness of the drug. Any data submitted should be well organized, be accompanied by a full factual analysis, and be derived 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 the sole support of claims, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

Data submitted in response to this announcement will be reviewed, together with the Academy's evaluation by appropriate outside experts and the Food and Drug Administration. Upon completion of this review, the Administration will publish in the FEDERAL REGISTER its findings and whether or not additional supporting data will be required.

A copy of the Academy's report has been furnished to Dormin, Inc. Communications forwarded in response to this announcement should be identified with the reference number DESI 7659, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20852:

Requests for Academy's report: Drug Efficacy Study Information Control (BD–67), Bureau of Drugs.

Data and all other communications: Drug Efficacy Study Implementation Project Office (BD–60).

This notice is issued pursuant to the 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 the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: July 21, 1971.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.71–10928 Filed 7–30–71;8:45 am]

*Presently in litigation regarding new drug status.

Office of Education

CONSTRUCTION OF ACADEMIC FACILITIES AND IMPROVEMENT OF UNDERGRADUATE INSTRUCTION

Allotment Ratios

Pursuant to both section 103 of the Higher Education Facilities Act of 1963, Public Law 88–204, 77 Stat. 363, which provides for grants for construction of academic facilities for public community colleges and technical institutes, and section 602 of the Higher Education Act of 1965, Public Law 89–329, 77 Stat. 1219, which provides for financial assistance for the improvement of undergraduate instruction, and on the basis of the average of the incomes per person of the States and of all the States for the three most recent consecutive calendar years for which satisfactory data are available

from the Department of Commerce, the following allotment ratios for the States are hereby promulgated, effective with respect to the allotment of such funds as may be appropriated for the fiscal year ending June 30, 1972.

Alabama	0.6539
Alaska	.4015
Arizona	.5537
Arkansas	.6619
California	.4166
Colorado	.5147
Connecticut	.3712
Delaware	.4400
Florida	.5326
Georgia	.5895
Hawaii	.4774
Idaho	.6025
Illinois	.4156
Indiana	.5003
Iowa	.5174
Kansas	.5231
Kentucky	.6162
Louisiana	.6162
Maine	.5879
Maryland	.4508
Massachusetts	.4346
Michigan	.4603
Minnesota	.5102
Mississippi	.6667
Missouri	.5258
Montana	.5728
Nebraska	.5197
Nevada	.4130
New Hampshire	.5248
New Jersey	.4213
New Mexico	.6101
New York	.3966
North Carolina	.6115
North Dakota	.6006
Ohio	.4926
Oklahoma	.5851
Oregon	.5134
Pennsylvania	.5025
Rhode Island	.4743
South Carolina	.6504
South Dakota	.5896
Tennessee	.6225
Texas	.5601
Utah	.5909
Vermont	.5572
Virginia	.5530
Washington	.4677
West Virginia	.6423
Wisconsin	.5072
Wyoming	.5450
District of Columbia	.3569
American Samoa	.6667
Canal Zone	
Guam	.6667
Puerto Rico	.6667
Virgin Islands	.6667

Approved: July 23, 1971.

SIDNEY P. MARLAND, Jr.,
Commissioner of Education.

[FR Doc.71-10929 Filed 7-30-71;8:45 am]

Social and Rehabilitation Service

STATEMENT OF ORGANIZATION, FUNCTIONS, AND DELEGATIONS OF AUTHORITY

Part 5, formerly Part 7, of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare, Social and Rehabilitation Service (35 F.R. 8712, June 4, 1970), is hereby amended with regard to section 5-B, formerly 7-B, Organization and Functions, for the purpose of reorganizing the Office of Public Affairs. Section 5-B of the statement is hereby amended as follows:

Office of Public Affairs is superseded by the following:

OFFICE OF PUBLIC AFFAIRS

Plans, directs, and coordinates the public affairs program for the Social and Rehabilitation Service. Advises on public information considerations and needs involved in program and policy recommendations and decisions. Provides guidance and leadership to all components of SRS in matters involving public affairs. Meets regularly with bureau information chiefs to review policy and to plan jointly for a coordinated program. Provides central news, television, radio, and film services for all SRS components. Plans and carries out the Service internal information programs. In collaboration with the bureaus and regional offices, assists the States in conducting their information programs. Develops basic SRS policy in the area of public affairs. Serves as the SRS contact point on public affairs with the Office of the Secretary, other agencies of the Department, and other Federal departments and agencies. The Office of Public Affairs consists of the Office of the Assistant Administrator and the following four divisions:

DIVISION OF MEDIA SERVICES

Plans and carries out the overall SRS program of relationship with all media (newspaper, magazines, radio, television, films, etc.). Plans, prepares, coordinates, evaluates, and edits releases, other news and feature materials, news conferences, and briefings for the press, magazines, radio, and television media representatives. Plans, prepares, coordinates, evaluates, and edits television, radio, and film activities and projects.

DIVISION OF PUBLICATIONS

Plans the overall SRS publications program, prepares original one-time publications for the Office of the Administrator, and handles design and production and initial distribution. Screens requests for approval of public information publications originating in the SRS Bureaus and Offices and makes determinations on general utility to SRS and the Department. Edits Bureau publications, reviews and clears for policy content, provides graphic services and advises on publication design. Maintains master list of all SRS publications and coordinates status of reserve supplies with Publications Distribution. Prepares a variety of editorial materials on SRS programs and coordinates and edits the SRS Annual Report.

DIVISION OF FIELD AND INTERNAL INFORMATION

Plans and carries out an overall SRS field information program designed to assure a constant flow of information between SRS and regional, State, and local information officers representing programs for which SRS has responsibility. Provides special information materials such as repro or mat service stories, photos, and tip sheets. Arranges, in coordination with Bureaus concerned, periodic group meetings of State/local information officers. Plans and implements an internal information program designed to keep employees informed of SRS activities.

DIVISION OF SPECIAL PROJECTS

Maintains broad liaison with national organizations in social welfare and allied fields. Plans, coordinates, and carries out special projects in the area of public affairs information. Operates Speakers Bureau for SRS, evaluating requests for speakers and recommending appropriate action.

Approved: July 23, 1971.

ELLIOT L. RICHARDSON,
Secretary.

[FR Doc.71-10956 Filed 7-30-71;8:48 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D-71-120]

ACTING DIRECTOR, URBAN RENEWAL DEMONSTRATION PROGRAM

Designation and Revocation

SECTION A. *Designation.* The Deputy Director, Urban Renewal Demonstration Program is designated to serve as Acting Director, Urban Renewal Demonstration Program, during the absence of the Director, Urban Renewal Demonstration Program, with all the powers, functions, and duties redelegated or assigned to the Director, Urban Renewal Demonstration Program.

SEC. B. *Revocation.* This designation supersedes the designation of Acting Director effective February 7, 1970 (35 F.R. 5639, April 7, 1970). (Secretary's delegation to Assistant Secretary and Deputy Assistant Secretary for Research and Technology effective March 1, 1971 (36 F.R. 5007, March 16, 1971))

Effective date. This designation shall be effective as of June 14, 1971.

THEODORE R. BRITTON, Jr.,
Deputy Assistant Secretary for Research and Technology.

[FR Doc.71-10942 Filed 7-30-71;8:47 am]

[Docket No. D-71-119]

PROPERTY DISPOSITION COMMITTEE

Members; Redelegation of Authority and Assignment of Functions

Section A of the redelegation of authority and assignment of functions with respect to the Property Disposition Committee, published at 35 F.R. 4022,

16102, October 14, 1970, is revised to read as follows:

SECTION A. *Property Disposition Committee Members.* The Property Disposition Committee is comprised of the following members: Deputy Assistant Secretary, Housing Management, Chairman; Director, Office of Property Disposition, Housing Management; Director, Office of Housing Programs, Housing Management; Director, Office of Loan Management, Housing Management; General Counsel or his designee; the Assistant Commissioner for Technical and Credit Standards, Housing Production and Mortgage Credit-FHA; and such other members as the Assistant Secretary of Housing Management (herein called the Assistant Secretary) shall designate.

(Secretary's delegation to Assistant Secretary for Housing Management effective Mar. 8, 1971, 36 F.R. 5005, Mar. 16, 1971)

Effective date. This amendment is effective May 17, 1971.

G. RICHARD DUNNELLS,
Acting Assistant Secretary for Housing Management.

[FR Doc.71-10941 Filed 7-30-71;8:46 am]

ATOMIC ENERGY COMMISSION

[Docket No. 115-3]

NEBRASKA PUBLIC POWER DISTRICT HALLAM NUCLEAR POWER FACILITY

Notice of Termination of Operating Authorization

The Atomic Energy Commission has terminated Operating Authorization No. DPRA-1 which authorized the Consumers Public Power District (CPPD), now the Nebraska Public Power District, to operate the Hallam Nuclear Power Facility (HNPF) located in Hallam, Nebr. On November 3, 1967, the Commission issued an order authorizing CPPD to dismantle the HNPF and decontaminate the facility in accordance with the HNPF Retirement Plan (Revised) and the Final Summary Safeguards Report, Supplement 5.

Representatives of the Commission have inspected the HNPF and have verified that it has been dismantled and disposition made of its component parts as described in the HNPF Retirement Plan (Revised). The Commission inspectors have further verified that the premises are safe from a radiation standpoint for unrestricted occupancy in accordance with the requirements of 10 CFR Part 20. In addition, an appropriate notice regarding the remainder of the dismantled facility has been placed in the land title records of Lancaster County, Nebr. The HNPF was Commission-owned; consequently, the Commission has title to and responsibility for the entombed radioactive materials.

Accordingly, the Commission has found that termination of Operating Authorization No. DPRA-1 for the HNPF will not be inimical to the common defense and security or to the health and safety of the public.

Copies of (1) the Commission's Order Terminating Operating Authorization (2) a related Safety Evaluation by the Commission's Division of Reactor Licensing, and (3) the CPPD application for termination dated December 15, 1969, and supplements dated February 9 and June 26, 1970, are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC. A copy of each of items (1) and (2) may be obtained upon request sent to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 20th day of July, 1971.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[FR Doc.71-10962 Filed 7-30-71;8:48 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23572]

AERONAVES DEL ECUADOR, S.A.

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding assigned to be held on July 27, 1971, is hereby reassigned to be held in Room 726 on August 4, 1971, at 10 a.m., e.d.s.t., Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before the undersigned examiner.

Dated at Washington, D.C., July 27, 1971.

[SEAL] THOMAS P. SHEEHAN,
Hearing Examiner.

[FR Doc.71-10980 Filed 7-30-71;8:50 am]

[Docket No. 23424]

BRITISH OVERSEAS AIR CHARTER, LTD.

Application for Foreign Air Carrier Permit; Notice of Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on August 18, 1971, at 10 a.m. (local time) in Room 503, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before Examiner James S. Keith.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before August 11, 1971.

Dated at Washington, D.C., July 28, 1971.

[SEAL] RALPH L. WISER,
Acting Chief Examiner.

[FR Doc.71-10981 Filed 7-30-71;8:50 am]

[Docket No. 22628; Order 71-7-137]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Fare Matters

Issued under delegated authority July 26, 1971.

Agreement adopted by the Traffic Conferences of the International Air Transport Association relating to fare matters; Docket 22628, Agreement CAB 22494, R-1.

By Order 71-7-52, dated July 9, 1971, action was deferred, with a view toward eventual approval on an agreement adopted by the Traffic Conferences of the International Air Transport Association (IATA). The agreement incorporates a new worldwide resolution which would have the effect of liberalizing, in certain circumstances, adherence by passengers to minimum-stay requirements attached to the use of special or discounted fares.

In deferring action on the agreement, 10 days were granted in which interested persons might file petitions in support of or in opposition to the proposed action. No petitions have been received within the filing period and the tentative conclusions in Order 71-7-52 will herein be made final.

Accordingly, it is ordered, That:

Agreement CAB 22494, R-1, be and hereby is approved.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-1084 Filed 7-30-71;8:50 am]

[Docket No. 22456]

LLOYD AEREO BOLIVIANO S.A.

Foreign Air Carrier Permit Application; Notice of Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on August 16, 1971, at 10 a.m. (local time) in Room 503, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before Examiner Joseph L. Fitzmaurice.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before August 11, 1971.

Dated at Washington, D.C., July 27, 1971.

[SEAL] RALPH L. WISER,
Acting Chief Examiner.

[FR Doc.71-10982 Filed 7-30-71;8:50 am]

[Docket No. 23496]

PANDAIR FREIGHT, LTD.

Foreign Air Carrier Permit for Indirect Foreign Air Transportation; Notice of Postponement of Hearing

Upon consideration of the request of Air-Sea Forwarders, Inc., and the answer of the applicant, notice is hereby given that the hearing in the above-entitled proceeding, now assigned to be held on August 4, 1971, is postponed to August 31, 1971. The hearing will be held in Room 503, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, at 10 a.m., e.d.s.t.

Notice is also given that the date set for the exchange of rebuttal exhibits and testimony is changed from July 30, 1971, to August 25, 1971.

Dated at Washington, D.C., July 27, 1971.

[SEAL] GREER M. MURPHY,
Hearing Examiner.

[FR Doc.71-10983 Filed 7-30-71;8:50 am]

CIVIL SERVICE COMMISSION

DEPARTMENT OF THE INTERIOR

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 the Interior to fill by noncareer executive assignment in the excepted service the position of Assistant to the Secretary for Land Utilization, Office of the Secretary, Immediate Office of the Secretary.

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

[FR Doc.71-11013 Filed 7-30-71;8:53 am]

DEPARTMENT OF THE INTERIOR

Notice of Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Deputy Director, National Park Service.

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

[FR Doc.71-11017 Filed 7-30-71;8:54 am]

DEPARTMENT OF THE INTERIOR

Notice of Revocation 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 revokes the authority of the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Associate Commissioner for Education and Programs, Bureau of Indian Affairs, Office of the Associate Commissioner for Education and Programs.

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

[FR Doc.71-11016 Filed 7-30-71;8:54 am]

DEPARTMENT OF THE INTERIOR

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 the Interior to fill by noncareer executive assignment in the excepted service the position of Deputy Commissioner, Bureau of Indian Affairs.

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

[FR Doc.71-11014 Filed 7-30-71;8:53 am]

DEPARTMENT OF LABOR

Notice of Grant of Authority To Make a 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 Labor to fill by noncareer executive assignment in the excepted service the positions of Deputy Assistant Secretary/Administrator and Director of Program Operations, Occupational Safety and Health Administration.

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

[FR Doc.71-11015 Filed 7-30-71;8:53 am]

OFFICE OF ECONOMIC OPPORTUNITY

Notice of Title Change in Noncareer Executive Assignment

By notice of February 23, 1971, F.R. Doc. 71-2463, the Civil Service Commission authorized the Office of Economic Opportunity to fill by noncareer executive assignment the position of Director, Human Rights Division, Office of the General Counsel. This is notice that the title of this position is now being changed to Associate Director for Human Rights, Office of Human Rights.

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

[FR Doc.71-11018 Filed 7-30-71;8:54 am]

OFFICE OF ECONOMIC OPPORTUNITY

Notice of Title Change in Noncareer Executive Assignment

By notice of June 23, 1970, F.R. Doc. 70-7847, the Civil Service Commission authorized the Office of Economic Opportunity to fill by noncareer executive assignment the position of Chief, Evaluation Division, Office of Planning, Research, and Evaluation, Office of Research and Evaluation. This is notice that the title of this position is now being changed to Director, Evaluation Division, Office of Planning, Research, and Evaluation, Office of Research and Evaluation.

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

[FR Doc.71-11019 Filed 7-30-71;8:54 am]

ENVIRONMENTAL PROTECTION AGENCY

GAF CORP.

Notice of Filing of Petition Regarding Pesticide Chemical

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 1F1109) has been filed by GAF Corp., 140 West 51st Street, New York, NY 10020, proposing establishment of an exemption from the requirement of a tolerance (21 CFR Part 420) for residues of γ-butyrolactone when used as an inert ingredient in pesticide formulations.

The analytical method proposed in the petition for determining residues of γ-butyrolactone is a colorimetric procedure in which the sample is extracted with ethanol. After reaction with hydroxylamine and ferric perchlorate, the absorbance is determined at 525 nanometers.

Dated: July 27, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.71-10987 Filed 7-30-71;8:51 am]

FMC CORP.

Notice of Withdrawal of Petition Regarding Pesticide Chemical

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)), the following notice is issued:

In accordance with § 420.8 *Withdrawal of petitions without prejudice* of the pesticide procedural regulations (21 CFR 420.8), FMC Corp., 100 Niagara Street, Middleport, NY 14105, has withdrawn its petition (PP 1F1029), notice of which was published in the FEDERAL REGISTER of February 10, 1971 (36 F.R. 2838), proposing the establishment of a tolerance (21 CFR Part 420) for negligible residues of the insecticide ethion (*O,O',O'*-tetraethyl *S,S'*-methylene bisphosphorodithioate), including its oxygen analog (S-[[(diethoxyphosphinothioyl)thiol]methyl] *O,O*-diethyl phosphorothioate), in or on the raw agricultural commodity peanuts at 0.1 part per million.

Dated: July 27, 1971.

WILLIAM M. UPHOLT,
Assistant Deputy Administrator for Pesticides Programs.

[FR Doc.71-10988 Filed 7-30-71;8:51 am]

FMC CORP.

Notice of Withdrawal of Petition Regarding Pesticide Chemical

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)), the following notice is issued:

In accordance with § 420.8 *Withdrawal of petitions without prejudice* of the pesticide procedural regulations (21 CFR Part 420.8), the Niagara Chemical Division, FMC Corp., 100 Niagara Street, Middleport, NY 14105, has withdrawn its petition (PP 1F1068), notice of which was published in the FEDERAL REGISTER of February 10, 1971 (36 F.R. 2823), proposing the establishment of a tolerance (21 CFR Part 420) for combined residues of the insecticide ethion and its oxygen analog in or on the raw agricultural commodity blueberries at 5 parts per million.

Dated: July 27, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.71-10989 Filed 7-30-71;8:51 am]

STAUFFER CHEMICAL CO.

Notice of Filing of Petition Regarding Pesticide Chemical

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 1F1173) has been filed by the Stauffer Chemical Co., 1200 South 47th Street, Richmond, CA 94804, proposing establishment of a tolerance (21 CFR Part 420) for negligible residues of the herbicide *S*-propyl dipropylthiocarbamate in or on the raw agricultural commodities corn grain, corn fodder and forage, and fresh corn including sweet corn (kernels plus cob with husk removed) at 0.1 part per million.

The analytical method proposed in the petition for determining residues of the herbicide is a gas chromatographic procedure using a flame photometric detector with a 394 nanometer filter for sulfur response.

Dated: July 27, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.71-10990 Filed 7-30-71;8:51 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report 554]

COMMON CARRIER SERVICES INFORMATION [1]

Domestic Public Radio Services Applications Accepted for Filing [2]

JULY 26, 1971.

Pursuant to §§ 1.227(b)(3) and 21.30(b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the list below, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business 1 business day preceding the day on which the Commission takes action on the previously filed application; or (b) Within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cutoff dates are set forth in the alternative—applications will be entitled to consideration with those listed below if filed by the end of the 60-day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

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

[1] All applications listed below are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations and other requirements.

[2] The above alternative cutoff rules apply to those applications listed below as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio and Local Television Transmission Services (Part 21 of the rules).

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

File No., applicant, call sign and nature of application

5763-C2-ML-71—Airsignal International of Pittsburgh, Pennsylvania, Inc. (KGA805), Modification of license to change the frequency from 43.58 MHz to 35.22 MHz at location No. 2: 309 Bailey Street, Pittsburgh, Pa.

179-C2-P-72—Cascade Telephone Co. (KOP320), C.P. to replace the transmitter operating on 152.660 MHz located at the Nelems Memorial Hospital, Snoqualmie, Wash.

180-C2-TC-(2)72—AAA Telephone Answering Service & Medical Exchange, Inc. Consent to transfer of control from Elizabeth S. Brunson et al., Transferors to: Middle South Communication Systems, Inc., Transferee. Stations: KLB781, Baton Rouge, La.; KQZ723, Baton Rouge, La. (one-way).

185-C2-P-72—Illinois Consolidated Telephone Co. (KSC369), C.P. to replace the transmitter operating on 152.63 MHz located at 405 South Fifth Street, Effingham, IL.

186-C2-P-72—Lett Electronics, Inc. (KEK275), C.P. for additional facilities to operate on 152.15 MHz at a new site described as location No. 2: 15 East Second Street, Hutchinson, KS.

187-C2-P-72—Lett Electronics, Inc. (New), C.P. for a new one-way station to be located at 15 East Second Street, Hutchinson, KS, to operate on frequency 158.70 MHz.

226-C2-MP-72—Professional Answering Service (KSV922), Modification of C.P. to add frequency 152.06 MHz at station located at Orchard Road, Jamestown, N.Y.

230-C2-P-72—Joplin Mobilfone Service, Inc. (KAH672), C.P. for additional facilities to operate on 152.15 MHz and to change the antenna system located at 3601 East 20th Street, Joplin, MO.

233-C2-P-72—Airsignal International, Inc. (KIE953), C.P. for additional facilities to operate on 35.580 MHz at a new site described as location No. 3: Atlanta International Center, 1001 International Boulevard, Atlanta, GA.

Major Amendment

1581-C2-P-71—Mobilfone of Monmouth of Ocean (KEJ886), Amended to read: Main base station. See Public Notice dated Sept. 28, 1970, Report No. 511.

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE—Continued

Correction

42–C2–P–72—Mobilfone of Kansas (New). Correct frequency to read: 152.24 MHz. See Public Notice dated July 19, 1971, Report No. 553.

75–C2–P–72—Answering Service, Inc. (New). Correct entry to read: C.P. for a new two-way station. See Public Notice dated July 19, 1971. Report No. 553.

RURAL RADIO SERVICE

180–C1–TC–72—AAA Telephone Answering Service & Medical Exchange, Inc. Consent to transfer of control from Elizabeth S. Brunson et al., Transferors, to: Middle South Communication Systems, Inc. Transferee. Station WGI47, Baton Rouge, La.

POINT-TO-POINT MICROWAVE RADIO SERVICE: (TELEPHONE CARRIERS)

181–C1–P–72—American Telephone & Telegraph Co. (KIL27), C.P. to add frequency 10,755 MHz toward Chapel Hill, N.C., a new point of communication. Station location: 3.5 miles south of Hillsboro, N.C.

182–C1–P–72—American Telephone & Telegraph Co. (KSB74), C.P. to add frequency 3890 MHz toward Centralia Junction, Ill. Station location: 2 miles north-northwest of Highland, Ill.

183–C1–P–72—American Telephone & Telegraph Co. (KSB66), C.P. to add frequency 4130 MHz toward Morgantown, Ind. Station location: 240 North Meridian Street, Indianapolis, IN.

184–C1–P–72—American Telephone & Telegraph Co. (KSP23), C.P. to add frequency 4170 MHz toward New Unionville, Ind. Station location: 2.3 miles north-northeast of Morgantown, Ind.

188–C1–P–72—Illinois Bell Telephone Co. (KSN60), C.P. to add frequencies 5960.0 and 11,325 MHz toward Silver Lake, Ill. Station location: 255 East Chicago Street, Elgin, IL.

189–C1–P–72—Illinois Bell Telephone Co. (KIL65), C.P. to add frequencies 6182.4 and 10,875 MHz toward Elgin, Ill. Station location: 1.3 miles northwest of Oakwood Hills, Ill.

5308–C1–ML–72—The Mountain States Telephone & Telegraph Co. (KPQ57), Modification of license to add frequencies 3910, 3990 MHz toward Casper Junction, Wyo., and include Western Electric Type TD–2 equipment. Location: 103 North Durbin Street, Casper, WY.

(INFORMATIVE: These facilities formerly authorized to American Telephone & Telegraph Co. for this station.)

207–C1–P–72—Pacific Northwest Bell Telephone Co. (KTF82), C.P. to change point of communication to Capitol Peak, Wash., via passive reflector. Frequencies: 11,445 and 11,685 MHz. Station location: 119 East Seventh Avenue, Olympia, WA.

209–C1–P–72—New England Telephone & Telegraph Co. (KCL54), C.P. to add frequency 6375.2 MHz toward Marshfield, Mass. Station location: 185 Franklin Street, Boston, MA.

210–C1–P–72—New England Telephone & Telegraph Co. (KVH81), C.P. to add frequency 6123.1 MHz toward Boston and Berkley, Mass. Station location: 0.9 mile south-southeast of Marshfield, Mass.

210–C1–P–72—New England Telephone & Telegraph Co. (KVH81), C.P. to add frequency 6375.2 MHz toward Marshfield and Fall River, Mass. Station location: Green Street, 1 mile south of Berkley, Mass.

212–C1–P–72—New England Telephone & Telegraph Co. (KCL56), C.P. to change frequency 6115.7 MHz to 11,135 MHz toward Fall River, Mass. Station location: Maple Street, Dighton, MA.

213–C1–P–72—New England Telephone & Telegraph Co. (KCL58), C.P. to change frequency 6367.7 MHz to 11,545 MHz toward Dighton, Mass., and add 6123.1 MHz toward Berkley, Mass. Station location: 326 North Main Street, Fall River, MA.

214–C1–P–72—New England Telephone & Telegraph Co. (KCL54), C.P. to add frequency 11,325 and 11,565 MHz toward Bear Hill, Waltham, Mass. Station location: 185 Franklin Street, Boston, MA.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIERS)—Continued

215–C1–P–72—New England Telephone & Telegraph Co. (New), C.P. for a new station to be located at 16–37 Permil Road, Needham, Mass. Frequency: 11,605 MHz toward Bear Hill, Waltham, Mass.

216–C1–P–72—New England Telephone & Telegraph Co. (New), C.P. for a new station to be located at Bear Hill, Bear Hill Road, Waltham, Mass. Frequencies: 11,075 and 11,155 MHz toward Needham, Mass., and 10,875 MHz toward Boston, Mass.

217–C1–P–72—New England Telephone & Telegraph Co. (KCL54), C.P. to replace transmitter and change alarm center location to 25 Concord Street, Manchester, NH. Station location: 185 Franklin Street, Boston, MA. Frequencies: 6197.2 and 6315.9 MHz toward Nobscot, Mass.

218–C1–P–72—New England Telephone & Telegraph Co. (KCL78), C.P. to replace transmitter and change alarm center location to 25 Concord Street, Manchester, NH. Frequencies: 5945.2 and 6063.8 MHz toward Boston, Mass., and 6063.8 and 5945.2 MHz toward Paxton, Mass. Station location: Brimestone Lane, Nobscot, Mass.

219–C1–P–72—New England Telephone & Telegraph Co. (KCL79), C.P. to replace transmitter and change alarm center location to 25 Concord Street, Manchester, NH. Frequencies: 6197.2 and 6315.9 MHz toward Nobscot and Pelham, Mass. Station location: Asnebumskit Road, Paxton, Mass.

220–C1–P–72—New England Telephone & Telegraph Co. (KCL81), C.P. to replace transmitter and change control point to 25 Concord Street, Manchester, NH. Frequencies: 5945.2 and 6063.8 MHz toward Paxton, Mass., and toward Springfield, Mass. Location: U.S. Route No. 202, Pelham, Mass.

221–C1–P–72—New England Telephone & Telegraph Co. (KCL82), C.P. to replace transmitter and change alarm center location to 25 Concord Street, Manchester, NH. Frequencies: 6197.2 and 6315.9 MHz toward Pelham, Mass. Station location: 295 Worthington Street, Springfield, MA.

222–C1–P–72—American Telephone & Telegraph Co. (KIK34), C.P. to add frequency 3890 MHz toward Chattanooga, Tenn. Station location: 1 mile east of Signal Mountain, Tenn.

223–C1–MP–72—The New York Telephone Co. (KEA67), Modification of C.P. for a developmental station to add frequency 11,155 MHz toward Brooklyn, N.Y. Station location: 355 Forest Avenue, Staten Island, NY.

224–C1–MP–72—The New York Telephone Co. (WDD41), Modification of C.P. to add frequency 11,605 MHz toward North Staten Island, N.Y. Station location: 101 Willoughby Street, Brooklyn, NY.

208–C1–ML–71—Pacific Northwest Bell Telephone Co. (KTF83), Modification of license to add frequencies 6026.7 and 10,875 MHz toward Auburn, Wash. and 10,755 and 10,995 MHz toward Olympia, Wash., via passive reflector. Station location: Capitol Peak, 11 miles west-southwest of Tumwater, Wash.

231–C1–P–72—The Ohio Bell Telephone Co. (KQO24), C.P. to change frequency 6367.1 MHz to 6367.7 MHz toward Paris, Ohio. Station location: Alliance Road, 0.9 mile southeast of Edinburg, Ohio.

234–C1–TC–(8)–72—General Telephone Co. of Alabama. Consent to transfer of control from General Telephone & Electronics Corp., Transferor to General Telephone Co. of the Southeast Transferee.

Stations

KJG74, Dothan, Ala.
KJG75, Brundidge, Ala.
KJG76, Ozark, Ala.
KTQ72, Enterprise, Ala.
KTQ73, Opp, Ala.
KTQ74, Andalusia, Ala.
KCG61, Temp. fixed location.
KL5014, Temporary fixed location.

4286–C1–P–70—Western Tele-Communications, Inc. (New), Change geographic coordinates of station location to latitude 45°31'18" N., longitude 122°40'48" W. Station location: North Lombard and North Terminal Road, Portland, OR. (All other particulars same as reported on Public Notice dated Feb. 16, 1970.)

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIERS)—Continued

6787-C1-P-70—Western Tele-Communications, Inc. (New), Application amended to delete frequencies 3770, 3850 MHz and add frequency 3810 MHz toward Aden Hills, N. Mex. Station location: Burro Peak, 16 miles south-southwest of Silver City, N. Mex. (All other particulars same as reported on Public Notice dated Apr. 27, 1970.)

Major Amendments

(INFORMATIVE: The following are amendments filed by Telephone Utilities Services Corp. to certain of its 36 applications for construction permits for point-to-point microwave stations to provide for transmission of data and other specialized communications between Dallas, Fort Worth, Waco, Austin, San Antonio, Corpus Christi, Houston, and Beaumont, Tex., as listed in Public Notice of June 29, 1970.)

8403-C1-P-70—Telephone Utilities Services Corp. (New), Site 7: Amend the frequency to 6286.2 MHz.

8405-C1-P-70—Telephone Utilities Services Corp. (New), Site 9: Correct azimuth 1°12′ to 1°09′ and 99°0′ to 98°57′.

8407-C1-P-70—Telephone Utilities Services Corp. (New), Site 11: Amend the frequency on azimuth 1°36′, toward Belton, to 6375.2 MHz.

8412-C1-P-70—Telephone Utilities Services Corp. (New), Site 16: Correct azimuth 247°42′ to read 243°42′.

8413-C1-P-70—Telephone Utilities Services Corp. (New), Site 17: Amend the frequency to 6226.9 MHz.

8415-C1-P-70—Telephone Utilities Services Corp. (New), Site 19: Correct latitude N. 39°11′-20″ to read N. 29°11′20″ and correct azimuth 293°12′ to read 293°27′ and azimuth 130°0′ to read 137°23′.

8417-C1-P-70—Telephone Utilities Services Corp. (New), Site 21: Correct azimuth 296°15′ to read 299°55′, azimuth 190°15′ to read 189°03′, and azimuth 92°02′ to read 91°06′.

8420-C1-P-70—Telephone Utilities Services Corp. (New), Site 24: Correct latitude N. 27°58′-47″ to read N. 27°58′57″ and correct azimuth 36°15′ to read 42°02′ and azimuth 153°31′ to read 148°11′.

8421-C1-P-70—Telephone Utilities Services Corp. (New), Site 25: Correct azimuth 335°25′ to read 328°15′.

8422-C1-P-70—Telephone Utilities Services Corp. (New), Site 26: Correct azimuth 271°20′ to read 271°18′ and azimuth 71°02′ to read 71°36′.

8423-C1-P-70—Telephone Utilities Services Corp. (New), Site 27: Correct azimuth 252°03′ to read 251°48′ and azimuth 69°02′ to read 70°43′.

8424-C1-P-70—Telephone Utilities Services Corp. (New), Site 28: Correct azimuth 251°40′ to read 251°55′ and azimuth 65°01′ to read 64°18′.

8425-C1-P-70—Telephone Utilities Services Corp. (New), Site 29: Correct azimuth 246°25′ to read 244°28′ and azimuth 20°48′ to read 26°52′.

8426-C1-P-70—Telephone Utilities Services Corp. (New), Site 30: Correct azimuth 207°15′ to read 206°58′, azimuth 317°10′ to read 314°40′, and azimuth 58°25′ to read 54°58′.

8427-C1-P-70—Telephone Utilities Services Corp. (New), Site 31: Correct azimuth 136°51′ to read 134°33′.

8428-C1-P-70—Telephone Utilities Services Corp. (New), Site 32: Correct azimuth 239°35′ to read 232°09′ and azimuth 59°48′ to read 62°52′.

8429-C1-P-70—Telephone Utilities Services Corp. (New), Site 33: Correct azimuth 241°35′ to read 243°02′ and azimuth 48°43′ to read 49°04′.

8430-C1-P-70—Telephone Utilities Services Corp. (New), Site 34: Correct azimuth 231°10′ to read 229°10′ and azimuth 85°32′ to read 87°16′.

8431-C1-P-70—Telephone Utilities Services Corp. (New), Site 35: Correct azimuth 264°40′ to read 267°28′.

7772-C1-P-71—First Television Corp. (New), C.P. for a new station at Pocomoke, Md., at latitude 38°04′01″ N., longitude 75°34′10″ W. Frequency 6389.9 MHz on azimuth 134°48′ and frequencies 6212.0, 6271.3, and 6330.6 MHz on azimuth 245°00′.

(INFORMATIVE: Applicant requested a waiver of section 21.701(i). Applicant proposes to provide the television signal of station WTTG(TV) of Washington, D.C., to Coastal Cable TV, Inc., in Chincoteague, Va., and to reroute service presently provided to Crisfield CATV, Inc., in Crisfield, Md., and also add one channel of service. Signals supplied to Crisfield are WBAL-TV, WJZ-TV, and WMAR-TV, all of Baltimore, Md.)

7773-C1-P-71—American Television Relay, Inc. (KGC90), C.P. to change location of receiving site in Las Cruces, N. Mex., to latitude 32°18′05″ N., longitude 106°46′36″ W. Frequencies 5960.0, 6019.3, 6078.6, and 6137.9 MHz on azimuth 66°56′. Location: Aden Hills, 19.3 miles southwest of Las Cruces, N. Mex.

[FR Doc.71-10993 Filed 7-30-71;8:51 am]

FEDERAL MARITIME COMMISSION

INACTIVE TARIFFS

Notice of Cancellation

By notice published in the FEDERAL REGISTER on June 4, 1971, the Commission notified the carriers named therein of its intent to cancel certain tariffs 30 days thereafter in the absence of a showing of good cause why such tariffs should not be cancelled. The following carriers failed to respond to the notice:

American Union Transport, Inc., 15 East 26th Street, New York, NY 10010.

Caribe Isle Shipping Corp., 1218 Northeast 98th Street, Miami Shores, FL 33018.

San Juan Shipping Corp., 2910 Northwest 10th Avenue, Miami, FL 33127.

Scanstar Puerto Rico, Inc., International Trademark, Suite 2346, New Orleans, La. 70130.

Twin Line, Inc., 1039 Paterson Plank Road, Secaucus, NJ 07094.

U.S. Hydrofoils, Lehigh Distrbiution Services, Inc., 20 Evergreen Place, East Orange, NJ 07018.

Accordingly, by the Commission pursuant to authority delegated by section 7.15 of Commission Order No. 1 (revised) dated September 29, 1970, the tariffs of the above named carriers were cancelled on July 23, 1971.

AARON W. REESE,
Managing Director.

[FR Doc.71-11005 Filed 7-30-71;8:52 am]

DARVIKSON FLORIDA, INC., ET AL.

Independent Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders, pursuant to section 44(a), of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Darvikson Florida, Inc., 10921 Larch Circle, Palm Beach Gardens, FL 33408.

Officers:
M. M. Jamison, President.
John A. G. Benson, Vice President.
Jean B. Jamison, Director.
Ailsa Wynn Benson, Director.

Crest-Mayflower International, Inc., 883 Massachusetts Avenue, Indianapolis, IN 46206.
Officers:
John B. Smith, President.
Fred J. Grumme, Vice President.
Charles W. Hulett, Vice President.
Robert E. McHaffie, Secretary.
Fred R. Blanford, Treasurer.

Trans-Con International, Inc., 88 West Broadway, New York, NY 10007.
Officers:
Ralph J. Elia, President/Treasurer.
Charles J. Pullis, Vice President.
Al F. Pullis, Secretary.

Pera Shipping Co., Inc., c/o Pavia & Harcourt, 63 Wall Street, New York, NY 10005.
Officers:
Patrizia Pera, President.
Axel P. W. Hansen, Vice President.
Edgar A. Harcourt, Secretary.

Baltimore Shipping Co., Inc., 231 East Baltimore Street, Baltimore, MD 21202.
Officers:
S. T. Genet, President.
Gerhard Bluemlein, Vice President/Secretary.
H. Edward Young, Treasurer.

Dated: July 28, 1971.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-11004 Filed 7-30-71;8:52 am]

[No. 71-16]

JOHNSON LINES ET AL.

Postponement of Filing Dates

JULY 28, 1971.

Johnson Lines, French Line, Hapag-Lloyd Line; violations of section 18(b)(3), Shipping Act, 1916.

Counsel for respondents have moved for discontinuance of this proceeding on the grounds that respondents have now cured the defects in their tariffs which are the subject of the order of investigation. To provide time for the disposition of this motion, filing dates in this proceeding are postponed until further notice.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-11006 Filed 7-30-71;8:53 am]

PACIFIC WESTBOUND CONFERENCE

Notice of Petition Filed

Notice is hereby given that the following petition has been filed with the Commission for approval pursuant to section 14b of the Shipping Act, 1916, as amended (75 Stat. 762, 46 U.S.C. 814).

Interested parties may inspect a copy of the current contract form and of the petition, reflecting the changes proposed to be made in the language of said contract, at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015, or at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to the proposed changes and the petition, including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, 1405 I Street NW., Washington, DC 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed modification of the contract form and/or the approved contract system shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the petition (as indicated hereinafter), and the statement should indicate that this has been done.

Notice of application to modify an approved dual rate contract filed by:

Mr. W. C. Galloway, Chairman, Pacific Westbound Conference, 635 Sacramento Street, San Francisco, CA 94111.

Modification No. 57DR-5 of the Pacific Westbound Conference's approved form of exclusive patronage (dual rate) contract would add clarifying language to the effect that no signatory merchant will have violated the terms of the contract if he elects to ship his merchandise to Conference destinations via U.S. Atlantic, Gulf Coast, or Great Lakes ports.

Dated: July 28, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-11007 Filed 7-30-71;8:53 am]

FEDERAL POWER COMMISSION

[Docket No. CP71-319]

COLORADO INTERSTATE GAS CO.

Notice of Application

JULY 21, 1971.

Take notice that on June 30, 1971, Colorado Interstate Gas Co., a division of Colorado Interstate Corp. (applicant), Post Office Box 1087, Colorado Springs, CO 80901, filed in Docket No. CP71-319 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction, lease and operation of facilities to connect to its pipeline system a new supply of natural gas available from the Big Horn Basin of Wyoming and Montana, and to increase its transmission system capacity by approximately 35,000 Mcf of natural gas per day, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, applicant proposes to construct and operate the following facilities:

Big Horn Basin facilities. 1. A compressor station having a total of 16,300 installed horsepower and a gas sweetening and dehydration plant with a design capacity of 40,000 Mcf per day located at Elk Basin Field. A portion of these facilities will be leased by applicant from the Elk Basin Field producers and a portion will be owned by applicant.

2. A 137-mile 16-inch-diameter pipeline (Big Horn Lateral) extending from applicant's existing Wind River lateral to the proposed Elk Basin compressor station.

3. A 19.7-mile 6-inch-diameter pipeline (Oregon Basin Lateral) extending from a point on the proposed Big Horn lateral to the Oregon Basin Field.

4. A 4.6-mile 4-inch-diameter pipeline (Silver Tip Lateral) extending from the proposed Elk Basin compressor station to the Silver Tip Field.

5. A total of five meter stations located at the Elk Basin, Oregon Basin, and Silver Tip Fields.

6. Minor piping revisions in the Rawlins, Wyo., area to route gas in the Wind River lateral to the downstream side of the gasoline plant and into the suction of the compressor station.

Mainline facilities. 1. A 20-mile section of 24-inch pipeline which will loop applicant's existing 22-inch Wyoming pipeline eastward from the Rawlins, Wyo., compressor station.

2. A 15.3-mile section of 24-inch pipeline which will extend the 24-inch loop on applicant's Wyoming pipeline, authorized by the Commission in Docket No. CP71-190, to the Norfolk delivery point.

Applicant states that the estimated cost of the facilities proposed herein, including various gathering facilities to be located in the Elk Basin and Oregon Basin Fields is $15,508,606. Applicant states that these facilities will be used to give it direct access to the Big Horn Basin, an area having substantial potential for future natural gas reserve development.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 9, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without

further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-10971 Filed 7-30-71;8:49 am]

[Docket No. G-10426]

EL PASO NATURAL GAS CO.

Notice of Petition To Amend

JULY 27, 1971.

Take notice that on July 20, 1971, El Paso Natural Gas Co (petitioner), Post Office Box 1492, El Paso, TX 79999, filed in Docket No. G-10426 a petition to amend the order of the Commission heretofore issued in said docket pursuant to section 7(c) of the Natural Gas Act on November 21, 1957 (18 FPC 690), as amended, by authorizing an increase in the volumes of natural gas to be sold and delivered to Colorado Interstate Gas Co., a division of Colorado Interstate Corp. (Colorado) and Mountain Fuel Supply Co. (Mountain), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

The order of November 21, 1957, authorized, inter alia, the construction and operation of facilities by petitioner's predecessor in interest, Pacific Northwest Pipeline Corp., and the sale and delivery of natural gas to Colorado and Mountain. The delivery of a daily maximum firm quantity of 117,500 Mcf to Colorado and 58,750 Mcf to Mountain is accomplished through facjlities in Sweetwater County, Wyo. On March 6, 1959 (21 FPC 337), the Commission amended the order previously issued in said docket by authorizing the sale and delivery of an additional 58,750 Mcf and 29,375 Mcf of natural gas per day to Colorado and Mountain, respectively on an interruptible basis.

Petitioner herein seeks authorization to sell and deliver additional volumes of natural gas, on a firm basis, to Colorado and Mountain. The natural gas service proposed herein will be subject to petitioner's Rate Schedule PL-1 and provides for the sale and delivery of an additional 26,210 Mcf daily to Colorado and 13,105 Mcf daily to Mountain. Petitioner states that these additional volumes of natural gas will be obtained as part of the volume authorized to be imported from Canada in Docket No. CP70-138 and that the service proposed herein will not be effective before November 1, 1971.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 17, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-10972 Filed 7-30-71;8:49 am]

[Docket No. CP72-17]

GRANITE STATE GAS TRANSMISSION, INC.

Notice of Application

JULY 27, 1971.

Take notice that on July 19, 1971, Granite State Gas Transmission, Inc. (applicant), 66 Market Street, Portsmouth, NH 03801, filed in Docket No. CP72-17 an application pursuant to section 7(b) of the Natural Gas Act for Permission and approval to abandon certain pipeline facilities, and pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of replacement facilities and certain modification to its Plaistow compressor unit and to sell and deliver additional volumes of natural gas to Northern Utilities, Inc. (Northern), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that a segment of its 8-inch pipeline located in the town of Greenland and the city of Portsmouth, Rockingham County, N.H., must be relocated to make way for new interstate highway construction. Applicant seeks authorization to construct and operate approximately 1.6 miles of 10-inch pipeline on an approximately parallel right-of-way, adjacent to and as a replacement for the existing 8-inch segment. Upon completion of the proposed construction, applicant seeks permission and approval for the abandonment in place of the 1.6 miles segment of 8-inch pipeline.

Applicant also seeks authorization to increase the range of operating pressures of its Plaistow Compressor unit, located in Plaistow County, N.H., by enlarging the inlet scrubbers and changing certain appurtenant station piping. Applicant states that the effect of these changes will be to increase the efficiency and to raise the hourly throughput of the unit.

The estimated cost of the construction and modification proposed herein is $178,720, which cost applicant states will be financed by an increase in the equity interest of Northern, applicant's parent company, in applicant.

Applicant also seeks authorization to increase its maximum daily deliveries to Northern from 15,496 Mcf to 16,498 Mcf beginning November 1, 1971. Applicant states that the maximum daily quantity to which it is entitled under the currently effective gas sales contract with Tennessee Gas Pipeline Co., a division of Tenneco Inc. has sufficient uncommitted deliverability for firm service to meet the proposed increase for Northern.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 16, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-10973 Filed 7-30-71;8:49 am]

[Docket No. RP70-42]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Motion for Approval of Stipulation and Agreement To Terminate Proceedings

JULY 23, 1971.

Take notice that on July 20, 1971, Natural Gas Pipeline Company of America (Natural) filed a proposed stipulation and agreement in Docket No. RP70-42, together with a motion requesting that the settlement be approved by the Commission. By order issued April 7, 1971,

the Commission approved a settlement covering allocation of the gas available for sale by Natural for the year 1971, and provided for a subsequent hearing to resolve the remaining issues in the proceeding. The instant stipulation and agreement would dispose of the remaining issues by establishing a permanent allocation procedure, for inclusion in Natural's FPC Gas Tariff, to be effective for 1972 and subsequent years.

Two very similar allocation procedures are attached to the settlement agreement in the form of Exhibit A and Exhibit B. The procedures set forth in Exhibit B will govern gas allocations if the settlement is approved before the Commission concludes its consideration of the proposed new tariff filed by Natural on May 28, 1971, in Docket No. RP71-125, and suspended by the Commission until December 1, 1971. If the Commission should ultimately approve the proposed tariff filed in Docket No. RP71-125, the allocation procedures set forth in Exhibit A would control gas allocations.

In both Exhibit A and Exhibit B, the pertinent allocation provisions are set forth in paragraph 22 of the General Terms and Conditions of Natural's tariff. The allocation process would begin by requiring the customers to furnish by June 1 to Natural statements of the daily and monthly quantities which they wish to purchase from Natural during the succeeding 3 years. In the case of an annual deficiency, Natural will notify its customers of the deficiency by August 5 and if the customers cannot adjust their annual volumes to fit the deficiency by August 20, there will be an annual allocation based on monthly requirements. For any month in which the requirements are not in excess of available supply, the customers will receive their full requirements. For any month in which requirements are in excess of supply, Natural will notify the customers of the monthly deficiency by September 5 and if the customers cannot adjust their requirements to fit the available supply by September 20, there will be an allocation made on the basis of daily demand quantities for the month in question.

In making annual allocations, basic quantities are first established for all customers. The G-1 and DMQ-1 customers whose contract demands are less than 30,000 Mcf are called nonparticipating buyers and their basic quantities are the same as their requests, subject to the limitation that increases must relate only to requirements for new firm year-round loads. Those customers whose daily demand quantities are in excess of 30,000 Mcf are called participating buyers and their basic annual quantities are the fixed quantities which are stated in paragraph 22.353. The deficiency is first allocated among all participating buyers until each of those buyers has been reduced to a 75 percent load factor. Any remaining deficiency is then allocated to all DMQ-1 and G-1 customers.

If the volume of gas available for sale by Natural should exceed its customers' basic annual quantities, the excess is allocated to the participating buyers until each such buyer receives the annual quantity it requested or its maximum annual entitlement, whichever is less. (The maximum annual entitlement is equal to the sum of a customer's monthly entitlements.) Any excess supply remaining after the participating buyers have received their maximum amounts is allocated among all DMQ-1 and G-1 buyers.

Paragraph 23 of the General Terms and Conditions is designed to cover any situation which might require Natural to curtail deliveries on a temporary basis. Under temporary allocations, Natural will first curtail all deliveries under its AOR-1 and E-1 Rate Schedules and under paragraph 2.4 of Rate Schedule DMQ-1. The gas supply which is available will then be allocated among the DMQ-1 and G-1 customers and Natural's direct industrial customers.

Pending Commission action on the motion for approval of the settlement proposal, Natural and its customers have agreed to carry out the preliminary steps required to establish allocation quantities for 1972 so that Natural will be in a position to operate its system under those allocation provisions in the event the Commission eventually approves the settlement.

Natural requests waiver of the Commission's rules and regulations to the extent necessary to effectuate all of the provisions of the stipulation and agreement.

The certificate of service accompanying the above-described filing states that it was filed on all parties to the proceeding in Docket No. RP70-42.

Comments relating to the proposed stipulation and agreement may be filed with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, and served on the parties to this proceeding, on or before August 9, 1971.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-10974 Filed 7-30-71;8:49 am]

[Docket No. CP72-16]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Application

JULY 26, 1971.

Take notice that on July 19, 1971, Transcontinental Gas Pipe Line Corp. (applicant), Post Office Box 1396, Houston, TX 77001, filed in Docket No. CP72-16 and application pursuant to section 7(c) of the Natural Gas Act as implemented by § 157.7(b) of the regulations under said Act, for a certificate of public convenience and necessity authorizing the construction, during the 12-month period commencing August 12, 1971, and operation of certain natural gas facilities to enable applicant to take into its pipeline system supplies of natural gas which will be purchased from producers in the general area of its existing pipeline system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the purpose of this budget-type application is to augment its ability to act with reasonable dispatch in contracting for and connecting to its pipeline system supplies of natural gas in various producing areas generally coextensive with said system.

The total cost of the facilities proposed herein is not to exceed $7 million, with no single offshore project costing in excess of $1,750,000, and no single onshore project costing in excess of $1 million.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 16, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-10975 Filed 7-30-71;8:50 am]

[Project 2716]

VIRGINIA ELECTRIC AND POWER CO.

Notice of Application for Preliminary Permit for Unconstructed Project

JULY 27, 1971.

Public notice is hereby given that application for preliminary permit has been filed under the Federal Power Act (16 U.S.C. 791a-825r) by Virginia Electric and Power Co. (correspondence to: E. B. Crutchfield, Senior Vice President, Virginia Electric and Power Co., Box 26666,

Richmond, VA 23261) for proposed Project No. 2716, to be known as the Bath County Pumped Storage Project to be located on Back Creek and Little Back Creek, in Bath County, near Mountain Grove, Va. The project would affect lands of the United States within the George Washington National Forest.

According to the application, the proposed project would consist of: An upper reservoir (maximum elevation 3,110 feet M.S.L.) on Little Back Creek formed by an impervious earth-fill, rock-shell type dam; tunnels and underground penstocks leading to an underground powerhouse; and a lower reservoir (maximum elevation 2,070 feet M.S.L) on Back Creek formed by an impervious, earth-fill, rock-shell dam with a gated spillway. Reversible units in the powerhouse would be capable of generating about 1,500 MW from water releases from the upper reservoir during peak-load hours and of pumping water from the lower to the upper reservoir during those hours when loads are relatively small. The maximum gross generating head would be about 1,050 feet. Details of the project would be developed by studies to be conducted under the preliminary permit. No construction is authorized under a preliminary permit.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 5, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-10977 Filed 7-30-71;8:50 am]

[Project 2717]

VIRGINIA ELECTRIC AND POWER CO.

Notice of Application for Preliminary Permit for Unconstructed Project

JULY 27, 1971.

Public notice is hereby given that application for preliminary permit has been filed under the Federal Power Act (16 U.S.C. 791a–825r) by Virginia Electric and Power Co. (correspondence to: E. B. Crutchfield, Senior Vice President, Virginia Electric and Power Company, Post Office Box 26666, Richmond, VA 23261) for proposed Project No. 2717, to be known as the Poor Mountain Pumped Storage Project, to be located on Goose Creek and Bottom Creek, tributaries of the South Fork of the Roanoke River, in the counties of Roanoke, Montgomery, and Floyd, Va.

According to the application the proposed Poor Mountain Pumped Storage Project would consist of an upper reservoir on Bottom Creek formed by a rock-fill dam; tunnels and underground penstocks leading to an underground powerhouse; and a lower reservoir at the head of the South Fork of the Roanoke River at the confluence of Bottom Creek and Goose Creek formed by a rock-fill, earth-core dam with a gated spillway. Reversible units in the powerhouse would be capable of generating about 1,500 MW from water releases from the upper reservoir during peak-load hours and of pumping water from the lower to the upper reservoir during those hours when loads are relatively small. The maximum gross generating head would be about 890 feet. Details of the project would be developed by studies to be conducted under the preliminary permit. No construction is authorized under a preliminary permit.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 4, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-10978 Filed 7-30-71;8:50 am]

DEPARTMENT OF LABOR

Office of the Secretary

ALABAMA

Notice of Termination of Extended Unemployment Compensation

The Federal-State Extended Unemployment Compensation Act of 1970, title II of Public Law 91-373, establishes a program of extended unemployment compensation which provides for payment to unemployed workers who have received all of the regular compensation to which they are entitled, commencing when unemployment is high (according to indicators set forth in the law) and terminating when unemployment ceases to be high (according to indicators set forth in the law). Pursuant to section 203(b)(2) of the Act, notice is hereby given that Tom J. Ventress, Director of the Alabama Department of Industrial Relations, has determined that there was a State "off" indicator in Alabama for the week ending June 26, 1971, and that an extended benefit period terminated in the State with the week ending July 10, 1971.

Signed at Washington, D.C., this 26th day of July 1971.

J. D. HODGSON,
Secretary of Labor.

[FR Doc.71-10932 Filed 7-30-71;8:46 am]

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF HEARINGS

JULY 28, 1971.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

I & S M-24823, Commutation Fares, between New York, N.Y., and New Jersey and New York, now assigned August 30, 1971, at New York, N.Y., will be held in Rooms C & D, 2200–2206, 26 Federal Plaza, instead of Room 3611.

MC 3647 Sub 426, Public Service Coordinated Transport, MC 109312 Sub 41, DeCamp Bus Lines, MC 109802 Sub 29, Lakeland Bus Lines, and MC 135331, doing business as Independent Bus Lines, assigned September 27, 1971, at the Public Utility Commission, 1100 Raymond Boulevard, Newark, NJ.

MC-F-10942, Pacific Intermountain Express Co.—Pooling—Bee Line Motor Freight, Inc.; MC-F-10967, Pacific Intermountain Express Co.—Pooling—Consolidated Motor Freight, Inc.; F-10968, Pacific Intermountain Express Co., Logan Valley Transfer Co.; F-10969, Pacific Intermountain Express Co.—Pooling—McAllister Transfer, Inc.; E-10971, Pacific Intermountain Express Co.—Pooling—Louis Steffensmeier & Edward Steffensmeier; F-11008, Pacific Intermountain Express Co.—Pooling—Brown Transfer Co.; F-11009, Pacific Intermountain Express Co.—Pooling—Abler Transfer, Inc.; MC-F-11033, Pacific Intermountain Express Co.—Pooling—Carstensen Freight Lines, Inc.; F-11057, Pacific Intermountain Express Co.—Pooling—Crouse Cartage Co.; F-11077, Pacific Intermountain Express Co.—Pooling—West Nebraska Express Co.; F-11078, Pacific Intermountain Express Co.—Pooling—Ross Transfer, Inc., assigned September 27, 1971, in the Louis Room, Omaha Hilton Hotel, 16th and Dodge Streets, Omaha, NE; MC-C-6767, Pacific Intermountain Express Co.—Investigation and Revocation of Certificate, will also be heard with these cases.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-11002 Filed 7-30-71;8:52 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

JULY 28, 1971.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42254—*Edible flour or meal to gulf ports.* Filed by Southwestern Freight Bureau, agent (No. B-249), for interested rail carriers. Rates on edible flour or meal, in carloads, as described in the application, from points in southwestern and western trunkline territories (including East St. Louis, Ill.), to gulf ports, Pensacola, Fla., to Corpus Christi, Tex. (for export).

Grounds for relief—Revision of commodity description.

Tariffs—Supplement 75 to the Atchison, Topeka and Santa Fe Railway Co., and eight other schedules named in the application. Rates are published to become effective on September 1, 1971.

FSA No. 42255—*Clay, kaolin or pyrophyllite from Aberdeen, Miss.* Filed by M. B. Hart, Jr., agent (No. A6271), for interested rail carriers. Rates on clay, kaolin or pyrophyllite, in carloads, as described in the application, from Aberdeen, Miss., and points taking same rates, to points in official, Illinois and southern territories.

Grounds for relief—Rate relationship.

Tariff—Supplement 127 to Southern Freight Association, agent, tariff ICC S-751. Rates are published to become effective on August 26, 1971.

By the Commission.

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

[FR Doc.71-11000 Filed 7-30-71;8:52 am]

[Notice 726]

MOTOR CARRIER TRANSFER PROCEEDINGS

JULY 28, 1971.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-35439. By order of July 23, 1971, the Motor Carrier Board approved the lease for a period of 1 year to J. B. Hunt Company of Georgia, Inc., Atlanta, Ga., of the operating rights in Certificate No. MC-129054 (Sub-No. 5) issued August 4, 1969, to Gilder Trucking Co., a corporation, Ellenwood, Ga., authorizing the transportation of polystyrene forms and shapes, from the plantsite of Dolco Packaging Corp., Lawrenceville, Ga., to points in that part of the United States on and east of U.S. Highway 85 (except points in North Carolina, South Carolina, Virginia, and that part of Tennessee east of a line beginning at the Tennessee-Georgia State line and extending along U.S. Highway 411 to junction U.S. Highway 441, thence along U.S. Highway 441 to Lake City, Tenn., thence along Interstate Highway 75 to the Tennessee-Kentucky State line). Virgil H. Smith, 431 Title Building, Atlanta, Ga. 30303, attorney for applicants.

No. MC-FC-72990. By order of July 16, 1971, the Motor Carrier Board approved the transfer to Martha E. Stack, 326 South Home Avenue, Pittsburgh, PA 15202, of the operating rights in Certificate of Registration No. MC-11036 (Sub-No. 2) issued March 12, 1965, to William J. Stack, 811 East View Street, Pittsburgh, PA 15208, evidencing a right to engage in transportation in interstate commerce as described in Certificate of Public Convenience granted in Docket No. 26256, Folder No. 2, dated August 29, 1935, issued by the Pennsylvania Public Utility Commission.

No. MC-FC-73011. By order of July 27, 1971, the Motor Carrier Board approved the transfer to Aloysius Kennah and Irene Kennah, a partnership, doing business as Al's Tours, St. Louis, Mo., of License No. MC-12539 issued January 26, 1959, to Fred W. Cunningham, doing business as Adventure Tours, St. Louis, Mo., authorizing operations as a broker in connection with the transportation of passengers and their baggage between specified points in Missouri and those in Illinois within 100 miles of St. Louis, Mo., on the one hand, and, on the other, all other points in the United States. Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, Mo. 63101, attorney for applicants.

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

[FR Doc.71-11001 Filed 7-30-71;8:52 am]

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