federal register

SATURDAY, SEPTEMBER 11, 1971

WASHINGTON, D.C.

Volume 36 ■ Number 177

Pages 18283–18357

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.

(Continued inside)

FEDERAL REGISTER

Area Code 202 Phone 962-8626

Published daily, Tuesday through Saturday (no publication on Sundays, Mondays, or on the day after an official Federal holiday), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., Ch. 15), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $2.50 per month or $25 per year, payable in advance. The charge for individual copies is 20 cents for each issue, or 20 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The regulatory material appearing herein is keyed to the CODE OF FEDERAL REGULATIONS, which is published, under 50 titles, pursuant to section 11 of the Federal Register Act, as amended (44 U.S.C. 1510). The CODE OF FEDERAL REGULATIONS is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Contents

(*Continued on next page*)

List of CFR Parts Affected

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

7 CFR

8 CFR

10 CFR

14 CFR

18 CFR

19 CFR

26 CFR

32A CFR

38 CFR

41 CFR

42 CFR

47 CFR

49 CFR

50 CFR

Rules and Regulations

Title 7—AGRICULTURE

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

SUBCHAPTER A—AGRICULTURAL CONSERVATION PROGRAMS

PART 701—NATIONAL RURAL ENVIRONMENTAL ASSISTANCE PROGRAM FOR 1971 AND SUBSEQUENT YEARS

The title of Part 701 is revised to read as set forth above and the part is revised, effective with the 1971 program year, to set forth the regulations governing the Rural Environmental Assistance Program for 1971 and subsequent years. The material previously appearing in these sections remains in full force and effect with respect to the programs to which it is applicable.

INTRODUCTION AND PROGRAM GOAL AND OBJECTIVES

DEFINITIONS

DISTRIBUTION OF FUNDS

STATE AND COUNTY RURAL ENVIRONMENTAL ASSISTANCE PROGRAMS

APPROVAL OF CONSERVATION PRACTICES ON INDIVIDUAL FARMS OR RANCHES

PRACTICE COMPLETION REQUIREMENTS

PROVISIONS RELATING TO COST-SHARING

AVAILABILITY OF FUNDS, APPLICABILITY, AND DELEGATION OF AUTHORITY

CONSERVATION PRACTICES FOR STATE AND COUNTY PROGRAMS

AUTHORITY: The provisions of this Part 701 issued under sec. 4, 49 Stat. 164, secs. 7–17, 49 Stat. 1148, as amended, 71 Stat. 176, 71 Stat. 426, 72 Stat. 864, 75 Stat. 225; 16 U.S.C. 590d, 590g–590q.

INTRODUCTION AND PROGRAM GOAL AND OBJECTIVES

§ 701.1 Introduction.

(a) Through the rural environmental assistance program for 1971 and subsequent years (referred to in this part as the "program") administered by the Department of Agriculture, the Federal Government will share with farmers and ranchers in the United States, Puerto Rico, and the Virgin Islands the cost of carrying out approved soil- and water-conservation practices, including related wildlife conservation and pollution abatement practices, in accordance with the provisions of this part and such modifications thereof as may hereafter be made.

(b) Information with respect to the several practices for which costs will be shared when carried out on a particular farm or ranch, and the exact specifications and rates of cost-sharing for such practices, may be obtained from the county committee for the county in which the farm or ranch is located or from the State committee.

§ 701.2 Program goal and objectives.

The rural environmental assistance program has been developed and is to be carried out in accordance with the following goal and objectives:

(a) *Goal.* The goal of the program is to improve the quality of life for all people by preventing or abating environmental pollution, providing the maximum public benefits, and conserving the land and related natural resources. These actions are to assure the continued supply of food and fiber necessary for the maintenance of a strong and healthy people and economy, and to provide for wildlife, open space, landscape beauty, and outdoor recreational opportunities.

(b) *Objectives.* The objectives of the program are to: (1) Prevent or abate agriculture-related pollution of water, land, and air for community benefit and the general public good; (2) reduce significantly the loss of agricultural soil, water, woodland, or wildlife resources and assure their efficient multipurpose use in providing an adequate supply of food, fiber, water, wildlife, open space, and outdoor recreational opportunities for the future and for the general improvement of man's total environment; (3) encourage enduring conservation practices in sound land use systems to deal with critical conservation and water, land or air pollution problems on farms and ranches, especially on average to small size family farms; and (4) achieve annually established goals, objectives, and priorities in a manner consistent with community and national needs.

DEFINITIONS

§ 701.3 Definitions.

(a) "County program development group" means the county committee, the designated representative of the Soil Conservation Service in the county, and the Federal Forest Service representative having jurisdiction of farm forestry in the county.

(b) "Farm" or "ranch" means that area of land considered as a farm under the regulations governing reconstitution of farms, allotments, and bases, Part 719 of this chapter, as amended, except that, for Hawaii, Puerto Rico, and the Virgin Islands, "farm" or "ranch" means that area of land considered as a farm under the regulations governing determination of farms, Parts 826, 827, and 828, respectively, of this title, as amended.

(c) "Person", or "farmer", or "rancher" means an individual, partnership, association, corporation, estate, trust, or other business enterprise, or other legal entity (and wherever applicable, a State, a political subdivision of a State, or any agency thereof) that, as owner, landlord, tenant, or sharecropper, participates in the operation of a farm or ranch. The term "tenant" shall include a person who, as a member of a grazing association, participates in the operation of the grazing lands owned or leased by the association.

(d) "Program year" means the period designated in the State program during which practices or components thereof must be carried out to be eligible for cost-sharing.

(e) "State" means any one of the United States, Puerto Rico, and the Virgin Islands.

(f) "State program development group" means the State committee (including the State director of extension), the State conservationist of the Soil Conservation Service, and the Forest Service official having jurisdiction of farm forestry in the State. (In States in the Appalachian region in which a program is developed under section 203 of Public Law 89-4, as amended, with assistance of the State program development group, the group shall include, upon request of the Governor, a representative recommended by the Governor and designated by the Secretary.)

(g) In the regulations in this part and in all instructions, forms, and documents in connection therewith, all other words and phrases shall, unless the context or subject matter otherwise requires, have the meanings assigned to them in the regulations governing reconstitution of farms, allotments, and bases, Part 719 of this chapter, as amended.

DISTRIBUTION OF FUNDS

§ 701.4 State funds.

(a) Funds available for practices for a program year will be distributed among States on the basis of conservation needs, but the proportion allocated for use in any State shall not be reduced more than 15 percent from its proportionate distribution for the preceding program year. The allocation of funds among the States for each program year shall be as provided in this section.

(b) The distribution made under this section will not include the amount required for increases in small Federal cost-shares in § 701.45 and the amount set aside for the naval stores conservation program, Part 706 of this chapter, as amended.

(c) The allocation of funds among the States for 1971 is as follows:

Alabama	$3,841,000
Alaska	63,000
Arizona	1,220,000
Arkansas	3,251,000
California	3,801,000
Colorado	2,941,000
Connecticut	301,000
Delaware	203,000
Florida	2,595,000
Georgia	4,615,000
Hawaii	157,000
Idaho	1,589,000
Illinois	5,533,000
Indiana	3,680,000
Iowa	6,067,000
Kansas	4,887,000
Kentucky	4,478,000
Louisiana	2,998,000
Maine	855,000
Maryland	883,000
Massachusetts	351,000
Michigan	3,262,000
Minnesota	4,550,000
Mississippi	4,139,000
Missouri	5,728,000
Montana	3,812,000
Nebraska	4,034,000
Nevada	520,000
New Hampshire	344,000
New Jersey	483,000
New Mexico	1,737,000
New York	3,390,000
North Carolina	4,129,000
North Dakota	3,910,000
Ohio	3,819,000
Oklahoma	4,588,000
Oregon	1,956,000
Pennsylvania	3,136,000
Puerto Rico	543,000
Rhode Island	50,000
South Carolina	2,348,000
South Dakota	3,019,000
Tennessee	3,565,000
Texas	13,496,000
Utah	1,001,000
Vermont	697,000
Virginia	2,861,000
Virgin Islands	10,000
Washington	2,105,000
West Virginia	1,113,000
Wisconsin	3,865,000
Wyoming	1,481,000
Total	144,000,000

§ 701.5 County funds.

The State committee will allocate the funds available for practices among the counties within the State consistent with program goals and objectives, and will give particular consideration to the furtherance of special rural environmental assistance program projects, watershed conservation projects, resource conservation and development projects, and other conservation projects sponsored by local people and organizations.

STATE AND COUNTY RURAL ENVIRONMENTAL ASSISTANCE PROGRAMS

§ 701.8 Development of State programs.

(a) A State rural environmental assistance program (referred to in this part as "State program") shall be developed in each State in accordance with the provisions contained in this part and such modifications thereof as may hereafter be made. The program shall be developed by the State program development group. The chairman of the State committee shall invite the following persons, or their designees, to participate in the deliberations on the State program: The Governor of the State, the president of the land-grant college, the State director of the Farmers Home Administration, and the heads of the State soil conservation committee (board or commission), the State agricultural extension service, the State agency having responsibility for wildlife conservation, the State agency having responsibility for pollution control or general quality of the environment and other State and Federal agricultural and environmental agencies. The chairman of the State committee may also invite others with conservation interests to participate in such deliberations.

(b) The program for the State shall be that recommended by the State program development group and approved by the Director, Conservation and Land Use Programs Division, ASCS, after obtaining the recommendations of the Soil Conservation Service and the Forest Service.

§ 701.9 Development of county programs.

(a) A county rural environmental assistance program (referred to in this part as "county program") shall be developed in each county in accordance with the provisions of the State program and such modifications thereof as may be made. The county program shall be developed by the county program development group. The county program development group, working with the community committeemen, the governing body of the conservation district, the farm forestry representatives of the State, the county agricultural extension agent for the county (if he is not included in the foregoing group as ex officio member of the county committee), the county supervisor of the Farmers Home Administration, and others with conservation interests, shall develop recommendations for the county program.

(b) A recommended program for the county shall be formulated by the county program development group in consultation with the governing body of the conservation district on the overall conservation, pollution, and other environmental problems in the county and, especially, on the work plans of the conservation district and of the Federal agencies involved to assure the most effective use of the available technical assistance and funds for cost-sharing.

(c) The program as formulated shall be recommended to the State committee for approval by the State program development group. The program recommendation shall be signed by the chairman of the county committee, the designated Soil Conservation Service representative, and the Forest Service representative where present in the

county, and shall state that the program was developed in consultation with the governing body of the conservation district, if any, or shall state that the governing body was invited to participate in developing the program but did not accept.

(d) The program for the county shall be that recommended by the county program development group and approved by the State program development group.

§ 701.10 Selection of practices.

The practices to be included in the State program or in the county program shall be only those practices for which cost-sharing is essential to permit accomplishment of needed conservation and pollution abatement work which would not otherwise be carried out.

§ 701.11 Adaptation of practices.

(a) The practices included in the State program must meet all conditions and requirements of the national program. Additional conditions and requirements may be included where necessary for effective use in meeting the conservation, pollution, and other environmental problems in the State.

(b) The practices included in the county program must meet all conditions and requirements of the State program. Additional conditions and requirements may be included where necessary for effective use in meeting the conservation, pollution, and other environmental problems in the county

§ 701.12 Practice specifications.

(a) Minimum specifications which practices must meet to be eligible for cost-sharing shall be set forth in the State handbook or in the county program, or incorporated therein by specific reference to a standard publication or other written document containing such specifications.

(b) Practice specifications shall provide minimum performance requirements which will qualify the practice for cost-sharing and, where applicable, may also provide maximum limits of performance which will be eligible for cost-sharing. The minimum performance requirements established for a practice shall represent those levels of performance which are necessary to assure a satisfactory practice. The maximum limits of performance for cost-sharing established for a practice shall represent those levels of performance which are needed in order for the practice to be most effective in meeting the conservation and pollution problems and which are not in excess of levels for which cost-sharing can be justified.

(c) Specifications for wildlife conservation practices shall be developed in consultation with the State agency having responsibility for wildlife conservation.

(d) Specifications for pollution abatement practices shall be developed in consultation with the State agency having responsibility for pollution control or general quality of the environment.

§ 701.13 Use of liming materials and commercial fertilizers for vegetative cover.

(a) Cost-sharing for liming materials and fertilizer shall be limited to the minimum application needed for successful establishment or improvement of the eligible vegetative cover. The minimum application shall be determined on the basis of a current soil test: *Provided*, That if a current soil test is not available for the farm and the Extension Service at the State level certifies in writing that the available soil testing capability is not adequate to provide timely results, applications of minerals shall be determined by the county committee on the basis of Extension Service recommendations for the area. A current soil test need not be required in the case of practices C–1 (§ 701.73(a)) and C–2 (§ 701.73(b)), and similar situations, upon a determination by the State program development group that accelerated growth is needed.

(b) The application of liming materials contained in commercial fertilizers, in rock phosphate, or in basic slag will not qualify for cost-sharing. The application of manure will not qualify for cost-sharing; however, manure may be used, where applicable, to meet all or part of the fertilizer requirement for a practice. Liming material or fertilizer must be applied at such time and in such a manner that a conserving cover will be the primary beneficiary of the application.

§ 701.14 Responsibility for technical phases of practices.

(a) The Soil Conservation Service is responsible for the technical phases of practices for which technical services are required, except for those for which the Forest Service has been assigned responsibility. The practices for which the Soil Conservation Service will have technical responsibility will be specified in State and county programs. These responsibilities will include, where appropriate: (1) A finding that the practice is needed and practicable on the farm; (2) necessary site selection, other preliminary work, and layout work of the practice; (3) necessary supervision of the installation; and (4) certification of performance for all requirements of the practice except those for which a certification by the farmer or rancher is to be accepted in accordance with instructions issued by the Deputy Administrator. The State conservationist of the Soil Conservation Service may utilize assistance from private, State, or Federal agencies in carrying out the assigned responsibilities. Responsibilities will not be assigned for counties with respect to which the Deputy Administrator and the Administrator, SCS, agree that it would not be administratively practicable for the Soil Conservation Service to discharge these responsibilities. In such counties, these responsibilities shall be assumed by the county committees. The Soil Conservation Service will utilize to the full extent available resources of the State forestry agencies in carrying out assigned responsibilities for practices involving the establishment of a stand of trees or shrubs on farmland to prevent wind or water erosion.

(b) The Forest Service is responsible for the technical phases of practices A–7 and B–10 (§§ 701.71(e) and 701.72(i)). This responsibility shall include: (1) Providing necessary specialized technical assistance; (2) developing specifications for forestry practices; and (3) working through State and county committees to determine performance in meeting these specifications. The Forest Service may utilize assistance from private, State, or Federal agencies in carrying out these assigned responsibilities but services of State forestry agencies will be utilized to the full extent such services are available.

§ 701.15 Rates of cost-sharing.

(a) The maximum cost-share for each practice shall be the percentage of the average cost of performing the practice considered necessary to obtain the needed performance of the practice, but which will be such that the farmer or rancher will make a substantial contribution to the cost of performing the practice. Rates of cost-sharing shall not be in excess of 50 percent of the average cost (30 percent of the average cost for practices B–6, B–8, C–12, C–15, C–16, D–1, D–2, E–1, and E–2 (§§ 701.72 (f) and (h), 701.73 (g), (h) and (i), 701.74 (a) and (b), and 701.75 (a) and (b)) and 80 percent of the average cost for practices A–7, A–8, and B–10 (§§ 701.71 (e) and (f), and 701.72(i)) of performing the practices, except that higher rates of cost-sharing may be approved by the Director, Conservation and Land Use Programs Division, ASCS, for high priority practices which have enduring conservation and pollution abatement benefits.

(b) For the purpose of establishing rates of cost-sharing, the average cost of performing a practice may be the average cost for a State, a county, or a part of a county, as determined by the State committee.

(c) The rates of cost-sharing for practices included in the county program may be lower than the rates approved for general use in the State.

§ 701.16 Items of cost on which rates of cost-sharing may be based.

Except as otherwise provided by the wording of the practices contained in this part or elsewhere in the program, the cost of any direct and significant factor in the performance of a practice may be considered in establishing the rate of cost-sharing for the practice.

§ 701.17 Handbooks, bulletins, instructions, and forms.

The Deputy Administrator is authorized to prepare and issue handbooks, bulletins, instructions, and forms required in administering the program. Copies of handbooks, bulletins, instructions, and forms containing detailed information with respect to the program as it applies to specific States, counties,

areas, farms, and ranches will be available in the office of the State committee and the office of the county committee.

APPROVAL OF CONSERVATION PRACTICES ON INDIVIDUAL FARMS OR RANCHES

§ 701.21 Opportunity for requesting cost-shares.

Each farmer or rancher, regardless of his race, creed, color, or national origin, shall be given an opportunity to request that the Federal Government share in the cost of those practices for which he considers he needs such assistance in order to permit their performance on his farm or ranch. The county committee, taking into consideration the request and any conservation plan developed by the farmer or rancher with the assistance of any State or Federal agency, and without regard to the race, creed, color, or national origin of the farmer or rancher, shall direct the available funds for cost-sharing to those farms and ranches and to those practices where cost-sharing is considered most essential to the accomplishment of the program goal and objectives.

§ 701.22 Prior request for cost-sharing.

Costs will be shared only for those practices, or components of practices, for which cost-sharing is requested before performance thereof is started, except that the Director, Conservation and Land Use Programs Division, ASCS, may authorize the acceptance of requests for cost-sharing filed within a reasonable period after performance is started for practices F–3 and F–4 (§ 701.76 (c) and (d)) and other practices where the farmer or rancher establishes that he intended to file a prior request for cost-sharing but was prevented from doing so for reasons beyond his control. For practices for which approval was given under the preceding year's program, performance was started but not completed during that program year, and the county committee believes the extension of the approval to the current year's program is justified under the provisions of the current year's program, the filing of the request for cost-sharing under the preceding year's program shall be regarded as meeting the requirement of the current year's program that a request for cost-sharing be filed before performance of the practice is started.

§ 701.23 Method and extent of approval.

The county committee, in accordance with a method approved by the State committee, will determine the extent to which Federal funds will be made available to share the cost of each approved practice on each farm or ranch, taking into consideration the county allocation, the conservation, pollution, and other environmental problems in the county and of the individual farm or ranch, and the practices for which requested cost-sharing is considered by the county committee as most needed in the current program year. The method approved shall provide for the issuance of notices of approval showing for each approved practice the number of units of the practice for which the Federal Government will share in the cost and the amount of the cost-share for the performance of that number of units of the practice. To the extent practicable, notices of approved practices shall be issued before performance of the practice is started. No practice may be approved for cost-sharing except as authorized by the national, State, or county program, or in accordance with procedures incorporated therein. Available funds for cost-sharing shall not be allocated on a farm or acreage-quota basis, but shall be directed to the accomplishment of the most enduring benefits attainable.

§ 701.24 Establishment or installation of practices.

Cost-sharing may be authorized under the program only for the establishment or installation of the practices contained in this part. The establishment or installation of a practice, for the purposes of the program, shall be deemed to include the replacement, enlargement, or restoration of practices for which cost-sharing has been allowed if the practice has served for its normal lifespan, or if all of the following conditions exist:

(a) Replacement, enlargement, or restoration of the practice is needed to meet the problem;

(b) The failure of the original practice was not due to the lack of proper maintenance by the current operator; and

(c) The county committee believes that the replacement, enlargement, or restoration of the practice merits consideration under the program to an equal extent with other practices for which cost-sharing has not been allowed under a previous program.

§ 701.25 Repair, upkeep, and maintenance of practices.

Cost-sharing is not authorized for repairs or for normal upkeep or maintenance of any practice.

§ 701.26 Pooling agreements.

Farmers or ranchers in any local area may agree in writing, with the approval of the county committee, to perform designated amounts of practices which, by conserving or improving the agricultural resources of the community, will solve a mutual conservation, pollution, or other environmental problem on the farms or ranches of the participants. For purposes of eligibility for cost-sharing, practices carried out under such an approved written agreement shall be regarded as having been carried out on the farms or ranches of the persons who performed the practices.

§ 701.27 Special provisions for low-income farmers and ranchers.

(a) Notwithstanding any other provision of this subpart, the county committee may approve, in the case of low-income farmers and ranchers as defined in this section, rates of cost-sharing in excess of 50 percent of the average cost of performing practices, and cost-sharing for Christmas tree plantings under practice A–7 (§ 701.71(e)) on any farmland owned and operated by them.

(b) A low-income farmer or rancher is one who, as determined by the county committee, is a small producer who is largely dependent on the farm or ranch for his livelihood, and whose prospective income and financial resources for the current year are such that he could not reasonably be expected to perform needed conservation practices at the rates of cost-sharing applicable to other persons in the county. In making such determinations, the county committee shall take into consideration such factors as the size and type of farming operations, estimated net worth, estimated gross family farm income, estimated family off-farm income, number of dependents, unusual expenses such as those resulting from illness, misfortune, or disaster, and other factors affecting the individual's ability to contribute to the cost of conservation practices.

(c) In approving requests for cost-sharing the county committee shall give special consideration to requests filed by low-income farmers and ranchers.

PRACTICE COMPLETION REQUIREMENTS

§ 701.31 Public benefits when installing practices.

Persons responsible for any aspect of performing practices are to be encouraged to install the practices in such a way as to promote public benefits by improving or preserving environmental quality and ecological balance by preventing or abating pollution and other environmental degradation; benefiting the community by means such as outdoor recreational opportunities, preserving open space, or enhancing the appearance of the area; benefiting wildlife and other desirable life forms; preserving historic, archeological, or scenic sites of interest; and avoiding the creation of hazards to persons or animals.

§ 701.32 Completion of practices.

Cost-sharing for the practices contained in this part is conditioned upon the performance of the practices in accordance with all applicable specifications and program provisions. Except as provided in §§ 701.33 to 701.35, practices must be completed during the program year in order to be eligible for cost-sharing.

§ 701.33 Practices substantially completed during program year.

Approved practices may be deemed, for purposes of payment of cost-shares, to have been carried out during a program year, if the county committee determines that they are substantially completed by the end of that program year. However, no cost-shares for such practices shall be paid until they have been completed in accordance with all applicable specifications and program provisions, except as provided in § 701.34.

§ 701.34 Practices requiring more than 1 program year for completion.

Cost-shares approved under a program will not be considered as earned until all components of the approved

practices are completed in accordance with all applicable specifications and program provisions. Cost-shares for completed components may be paid only after the practice is substantially completed, and only on the condition that the farmer or rancher will complete the remaining components of the practice within the time prescribed by the county committee and regardless of whether cost-sharing therefor is offered unless he is prevented from doing so because of reasons beyond his control.

§ 701.35 Practices involving the establishment or improvement of vegetative cover.

Costs for practices involving the establishment or improvement of vegetative cover, including trees, may be shared even though a good stand is not established, if the county committee determines, in accordance with standards approved by the State committee, that the practice was carried out in a manner which would normally result in the establishment of a good stand, and that failure to establish a good stand was due to weather or other conditions beyond the control of the farm or ranch operator. The county committee may require as a condition of cost-sharing in such cases that the area be reseeded or replanted or that other needed protective measures be carried out. Cost-sharing in such cases may be approved also for repeat applications of measures previously carried out or for additional eligible measures. Cost-sharing for such measures shall be approved to the extent such measures are needed to assure a good stand even though less than that required by the applicable practice wording for initial approvals.

§ 701.36 Failure to meet minimum requirements.

Notwithstanding other provisions of the program, costs may be shared for performance actually rendered even though the minimum requirements for a practice are not met, if the farmer or rancher establishes to the satisfaction of the county committee and the county representative of any other agency having responsibility for technical phases of the practice that he made a reasonable effort to meet the minimum requirements, and that the practice as performed adequately solves the problem.

PROVISIONS RELATING TO COST-SHARING

§ 701.41 Conservation materials and services.

(a) *Availability.* Part or all of the cost-share for an approved practice may be in the form of conservation materials or services furnished through the program for use in carrying out the practice. Materials or services may not be furnished to persons who are indebted to the Federal Government, as indicated by the debt record maintained in the office of the county committee, except in those cases where the agency to which the debt is owed waives its rights to setoff in order to permit the furnishing of materials and services.

(b) *Cost to farmer or rancher.* The farmer or rancher shall be responsible for paying that part of the cost of the material or service which is in excess of the amount to be advanced toward the purchase of the material or service. The maximum amount which may be advanced toward the purchase of the material or services is the cost-share attributable to the use of the material or service, or, upon request by the farmer or rancher and approval by the county committee, the cost-share for all components of the practice which likely will be completed during the program year, plus any applicable small cost-share increase, but not in excess of the cost of the material or service.

(c) *Responsibility for materials and services.* (1) If the materials or services are properly used in carrying out the practice with respect to which they were furnished, recovery of the amount advanced toward the purchase of the materials or services will be made from the persons who share in the cost-share payment for the practice, in the proportion in which they share in the cost-share payment. If the materials or services are not used for the purpose for which they were furnished, the person to whom they were furnished shall be indebted to the Federal Government for the amount advanced toward the cost of the materials or services.

(2) Any person to whom materials are furnished shall be responsible to the Federal Government for any damage to the materials, unless he shows that the damage was caused by circumstances beyond his control. If materials are abandoned or not used during the program year, they may, in accordance with instructions issued by the Deputy Administrator, be transferred to another person or otherwise disposed of at the expense of the person who abandoned or failed to use the material; or be retained by the person for use in a subsequent program year.

(d) *Eligibility to furnish conservation materials and services.* To be eligible to furnish conservation materials or services on the basis of purchase orders issued by the county committee, a vendor must agree that he will fill purchase orders without regard to the race, creed, color, or national origin of the farmer or rancher to whom the purchase order is issued.

§ 701.42 Practices carried out with aid from ineligible persons.

The entire cost-share for a practice carried out with aid from an ineligible person, including a State or Federal agency, shall be credited to the eligible persons who contributed to the cost of carrying out the practice: *Provided*, That the cost-share credited to an eligible person shall not exceed his contribution to the cost of carrying out the practice.

§ 701.43 Division of cost-shares.

(a) The cost-share for a practice shall be credited to the person who carried out the practice. If more than one person contributed to the carrying out of a practice, the cost-share for the practice shall be divided among such persons in the proportion that the county committee determines they contributed to the carrying out of the practice. In making this determination, the county committee shall take into consideration the value of the labor, equipment, or material contributed by each person toward the carrying out of the practice, and shall assume that each contributed equally unless it is established to the satisfaction of the county committee that their respective contributions thereto were not in equal proportion. Advances toward the cost of materials or services under § 701.41, the furnishing of land, and the furnishing of the right to use water will not be considered as a contribution to the carrying out of any practice.

(b) The allowance by an eligible person of a credit to another eligible person in the form of an adjustment in rental or an exchange of cash or other consideration will not be considered as a contribution to the carrying out of any practice unless it is established to the satisfaction of the county committee that such credit is directly related to the cost or cost-share for the practice. A person will not be considered as having contributed to the carrying out of a practice if the county committee determines that he has been or is to be fully reimbursed for contributions he made to the performance of the practice, through an adjustment in rental or an exchange of cash or other consideration between eligible persons directly related to the cost or cost-share for the practice.

§ 701.44 Death, incompetency, or disappearance.

In case of death, incompetency, or disappearance of any person, any cost-shares due him shall be paid to his successor, determined in accordance with the provisions of the regulations in Part 707 of this chapter, as amended.

§ 701.45 Small cost-share increases.

For practices other than practice F-4 (§ 701.76(d)), the sum of the cost-shares computed for any person with respect to any farm or ranch under the rural environmental assistance program and the naval stores conservation program, Part 706 of this chapter, as amended, shall be increased as follows:

(a) Any cost-share amounting to $0.71 or less shall be increased to $1.

(b) Any cost-share amounting to more than $0.71, but less than $1, shall be increased by 40 percent.

(c) Any cost-share amounting to $1 or more shall be increased in accordance with the following schedule:

Amount of cost-share computed:	Increase in cost-share
$1 to $1.99	$0.40
$2 to $2.99	.80
$3 to $3.99	1.20
$4 to $4.99	1.60
$5 to $5.99	2.00
$6 to $6.99	2.40
$7 to $7.99	2.80
$8 to $8.99	3.20
$9 to $9.99	3.60
$10 to $10.99	4.00
$11 to $11.99	4.40
$12 to $12.99	4.80
$13 to $13.99	5.20
$14 to $14.99	5.60
$15 to $15.99	6.00
$16 to $16.99	6.40
$17 to $17.99	6.80
$18 to $18.99	7.20
$19 to $19.99	7.60
$20 to $20.99	8.00
$21 to $21.99	8.20
$22 to $22.99	8.40
$23 to $23.99	8.60
$24 to $24.99	8.80
$25 to $25.99	9.00
$26 to $26.99	9.20
$27 to $27.99	9.40
$28 to $28.99	9.60
$29 to $29.99	9.80
$30 to $30.99	10.00
$31 to $31.99	10.20
$32 to $32.99	10.40
$33 to $33.99	10.60
$34 to $34.99	10.80
$35 to $35.99	11.00
$36 to $36.99	11.20
$37 to $37.99	11.40
$38 to $38.99	11.60
$39 to $39.99	11.80
$40 to $40.99	12.00
$41 to $41.99	12.10
$42 to $42.99	12.20
$43 to $43.99	12.30
$44 to $44.99	12.40
$45 to $45.99	12.50
$46 to $46.99	12.60
$47 to $47.99	12.70
$48 to $48.99	12.80
$49 to $49.99	12.90
$50 to $50.99	13.00
$51 to $51.99	13.10
$52 to $52.99	13.20
$53 to $53.99	13.30
$54 to $54.99	13.40
$55 to $55.99	13.50
$56 to $56.99	13.60
$57 to $57.99	13.70
$58 to $58.99	13.80
$59 to $59.99	13.90
$60 to $185.99	14.00
$186 to $199.99	[1]
$200 and over	[2]

[1] Increase to $200.
[2] No increase.

§ 701.46 Maximum cost-share limitation.

(a) For each program year, for practices other than practice F-4 (§ 701.76 (d)), the total of all cost-shares to any person with respect to farms, ranches, and turpentine places in the United States, Puerto Rico, and the Virgin Islands for approved practices which are not carried out under pooling agreements shall not exceed the sum of $2,500, and for all approved practices, including those carried out under pooling agreements, shall not exceed the sum of $10,000. Lower cost-share limitations may be included in State and county programs where needed to provide more effective use of available funds in meeting the conservation, pollution, and other environmental problems in the State or county.

(b) All or any part of any cost-share which otherwise would be due any person for a program year may be withheld, or required to be refunded, if, with respect to that program year, he has adopted, or participated in adopting, any scheme or device, including the dissolution, reorganization, revival, formation or use of any corporation, partnership, estate, trust, or any other means, designed to evade the provisions of this section.

(c) For the purpose of applying the maximum cost-share limitation, the rules in subparagraphs (1) through (9) of this paragraph shall apply in determining whether certian individuals who may have an interest in the ownership or operation of a farm or ranch are to be considered as one person or as separate persons. In cases where more than one rule would appear to be applicable, the rule which is most restrictive as to the number of persons shall apply.

(1) *Husband and wife.* Husband and wife shall be considered as one person for all farms in which either has an interest except that a husband or wife shall be considered a separate person with respect to any farm as to which all of the conditions set forth in subparagraph (9) of this paragraph are met.

(2) *Family groups.* Members of the same family shall be considered as one person for all farms in which any member has an interest except that any member shall be considered a separate person with regard to any farm as to which all the conditions set forth in subparagraph (9) of this paragraph are met.

(3) *Partnerships.* A partnership and its members shall be considered as one person for all farms in which the partnership or any member thereof has an interest except that the partnership or any member thereof shall be considered a separate person with respect to any farm as to which all the conditions set forth in subparagraph (9) of this paragraph are met: *Provided,* That in no event shall cost-sharing be approved for both the partnership and the individual members thereof on the same farm.

(4) *Corporations.* A corporation (including a grazing association) and its shareholders or members shall be considered as one person for all farms in which the corporation or any shareholder or member has an interest except that the corporation or any shareholder or member thereof shall be considered a separate person with respect to any farm as to which all the conditions set forth in subparagraph (9) of this paragraph are met: *Provided;* That in no event shall cost-sharing be approved for both the corporation and the individual shareholders or members thereof on the same farm.

(5) *Trusts.* The trustee of a trust and the beneficiaries of the trust shall be considered as one person on all farms in which the trustee or any beneficiary of the trust has an interest except that the trustee or any beneficiary of the trust shall be considered a separate person with respect to any farm as to which all the conditions of subparagraph (9) of this paragraph are met: *Provided,* That in no event shall cost-sharing be approved for both the trustee and the beneficiaries of the trust on the same farm.

(6) *Estates.* The administrator or executor of an estate and the heirs thereof shall be considered as one person on all farms in which the administrator or executor or any heir thereof has an interest except that the administrator or executor or any heir of the estate shall be considered a separate person with respect to any farm as to which all the conditions of subparagraph (9) of this paragraph are met: *Provided,* That in no event shall cost-sharing be approved for both the administrator or executor and the heirs of the estate on the same farm.

(7) *Tenants in common and joint tenants.* All persons owning a farm as tenants in common or as joint tenants shall be considered as one person with respect to such farm execpt that the owners shall be considered separate persons if all the conditions set forth in subparagraph (9) of this paragraph are met.

(8) *Joint undertakings.* Two or more individuals acting as a group under an arrangement which, although lacking the legal elements of a corporation or partnership, is in the nature of a joint undertaking shall be considered as one person with respect to any farm to which the joint undertaking applies. If any of the individuals has a separate interest in a farm with which the group is not involved, the payment limitation shall apply to the total of the payment earned by such individual and his share of the payment to the joint undertaking.

(9) *Exception.* The conditions which must be met in order for any individual or other entity referred to in subparagraph (1), (2), (3), (4), (5), (6), or (7) of this paragraph to be considered a separate person are as follows:

(i) The interests of such individual or other entity in the farm and income therefrom must be separate and distinct from the interests therein of the other individuals or entity referred to in the applicable subparagraph;

(ii) Such individual or other entity must exercise, separate from the other individuals or entity referred to in the applicable subparagraph, responsibility for management of such separate interests; and

(iii) The contribution of such individuals or other entity to the cost of performing practices must be made from a fund or account separate from that of any other individual or entity referred to in the applicable subparagraph.

(d) For the purpose of applying the cost-share limitation, a corporation or partnership shall be considered as a separate person from any other corporation or partnership which may participate in the program, even though there are common stockholders or members, with respect to any farm as to which all the following conditions are met: (1)

The interests of such corporation or partnership in the farm and the income therefrom must be separate and distinct from the interests therein of the other corporation or partnership; (2) such corporation or partnership must exercise, separate from the other corporation or partnership, responsibility for management of such separate interests; and (3) the contribution of such corporation or partnership to the cost of performing practices must be made from a fund or account separate from that of the other corporation or partnership: *Provided*, That in no event shall cost-sharing be approved on the same farm for more than one corporation or partnership having common stockholders or members.

§ 701.47 Persons eligible to file application for payment of cost-shares.

Any person who as owner, landlord, tenant, or sharecropper on a farm or ranch, bore a part of the cost of an approved practice is eligible to file an application for payment of the cost-share due him.

§ 701.48 Time and manner of filing application and required information.

(a) It shall be the responsibility of persons participating in the program to submit to the county office forms and information needed to establish the extent of the performance of approved practices and compliance with applicable program provisions. Time limits with regard to the submission of such forms and information shall be established where necessary for efficient administration of the program. Such time limits shall afford a full and fair opportunity to those eligible to file the forms or information within the period prescribed. At least 2 weeks notice to the public shall be given of any general time limit prescribed. Such notice shall be given by mailing notice to the office of each county committee and making copies available to the press. Other means of notification, including radio announcements and individual notices to persons affected, shall be used to the extent practicable. Notice of time limits which are applicable to individual persons, such as time limits for reporting performance of approved practices, shall be issued in writing to the persons affected. Exceptions to time limits may be made in cases where failure to submit required forms and information within the applicable time limits is due to reasons beyond the control of the farmer or rancher.

(b) Payment of cost-shares will be made only upon application submitted on the prescribed form to the county office by December 31 of the year following the current program year or such earlier date as is prescribed by the Deputy Administrator. Any application for payment may be rejected if any form or information required of the applicant is not submitted to the county office within the applicable time limit.

§ 701.49 Appeals.

Any person may obtain reconsideration and review of determinations affecting his participation in the program, in accordance with Part 780 of this chapter, as amended.

§ 701.50 Performance based upon advice or action of county or State committee.

Cases involving performance rendered in good faith in reliance upon action or advice of an authorized representative of a county committee or State committee shall be handled in accordance with Part 790 of this chapter.

§ 701.51 Compliance with regulatory measures.

Persons who carry out practices under the program shall be responsible for obtaining the authorities, rights, easements, or other approvals necessary to the performance and maintenance of the practices in keeping with applicable laws and regulations. The person with whom the cost of the practice is shared shall be responsible to the Federal Government for any losses it may sustain because he infringes on the rights of others or fails to comply with applicable laws or regulations.

§ 701.52 Maintenance and use of practices.

The sharing of costs for the performance of approved practices on any farm or ranch under the program shall be subject to the condition that the person with whom the costs are shared will maintain and use such practices for the purposes for which cost-sharing was authorized throughout their normal lifespans as determined by the county committee, as long as the land on which they are carried out is under his control, unless the State or county committee determines that good farming practice does not require such maintenance and use or that the failure to so maintain and use the practices was due to conditions beyond his control. If the State or county committee finds that there has not been compliance with this provision, with respect to any practice, the person with whom costs for the practice were shared shall be required to refund all of the cost-share for the practice, or such part thereof as the State or county committee may determine.

§ 701.53 Practices defeating purposes of program.

If the county committee finds with the concurrence of the State committee, or if the State committee finds, that any person has adopted or participated in any practice which tends to defeat the purposes of the program, including, but not limited to, failure to maintain, in accordance with good farming practices, practices carried out during a previous program year, it may withhold, or require to be refunded, all or any part of the cost-share which otherwise would be due him for the program year in which he adopted or participated in the practice which tends to defeat the purposes of the program.

§ 701.54 Depriving others of cost-shares.

If the State committee finds that any person has employed any scheme or device (including coercion, fraud, or misrepresentation), the effect of which would be or has been to deprive any other person of the cost-shares due that person under the program, it may withhold, in whole or in part, from the person participaing in or employing such a scheme or device, or require him to refund in whole or in part, the cost-share which otherwise would be due him for the program year in which the scheme or device was employed.

§ 701.55 Filing of false claims.

If the State committee finds that any person has knowingly supplied false information, or has knowingly filed a false claim, including a claim for payment of the cost-share under the program for practices not carried out or for practices carried out in such a manner which they do not meet the required specifications therefor, such person shall not be eligible for any cost-share under the program year with respect to which the false information or false claim was filed, and shall refund all amounts that may have been paid to him under that program year. The withholding or refunding of cost-shares will be in addition to and not in substitution of any other penalty or liability which might otherwise be imposed by law.

§ 701.56 Misuse of purchase orders.

If the State committee finds that any person has knowingly used a purchase order issued to him for conservation materials or services for a purpose other than that for which it was issued and that such misuse of the purchase order tends to defeat the purpose for which it was issued, such person shall not be eligible for any cost-share for the program year with respect to which the purchase order was issued, and shall refund all amounts that may have been paid to him under that program year. The withholding or refunding of cost-shares will be in addition to and not in substitution of any other penalty or liability which might otherwise be imposed by law.

§ 701.57 Cost-shares not subject to claims.

Any cost-share, or portion thereof, due any person shall be determined and allowed, without regard to questions of title under State law; without deductions of claims for advances except as provided in § 701.58; and without regard to any claim of lien against any crop, or proceeds thereof, in favor of the owner or any other creditor. The regulations issued by the Secretary governing setoffs and withholdings, Part 13 of this title, as amended, shall be applicable to the program.

§ 701.58 Assignments.

Any person who may be entitled to any cost-share under the program may assign his right thereto, in whole or in part,

in accordance with the regulations governing the assignment of payments, Part 709 of this chapter, as amended.

AVAILABILITY OF FUNDS, APPLICABILITY, AND DELEGATION OF AUTHORITY

§ 701.59 Availability of funds.

(a) The provisions of the program are necessarily subject to such legislation as the Congress of the United States may hereafter enact; the paying of the cost-shares provided herein is contingent upon such appropriation as the Congress may hereafter provide for such purpose; and the amounts of such cost-shares will necessarily be within the limits finally determined by such appropriation.

(b) The funds provided for a particular program year will not be available for paying cost-shares for which applications are filed in the county office after December 31 of the year following that program year.

§ 701.60 Program applicability.

(a) The program is applicable to: (1) Privately owned lands; (2) lands owned by a State or political subdivision or agency thereof; (3) lands owned by corporations which are partly owned by the United States, such as production credit associations; (4) lands temporarily owned by the United States or a corporation wholly owned by it, which were not acquired or reserved for conservation purposes, including lands adminstered by the Farmers Home Administration, the U.S. Department of Defense, or by any other Government agency designated by the Deputy Administrator; (5) any cropland farmed by private persons which is owned by the United States or a corporation wholly owned by it; (6) Indian lands, except that where grazing operations are carried out on Indian lands administered by the Department of the Interior, such lands are within the scope of the program only if covered by a written agreement approved by the Department of the Interior giving the operator an interest in the grazing and forage growing on the land and a right to occupy the land in order to carry out the grazing operations; and (7) noncropland owned by the United States for performance by private persons of practices which directly conserve or benefit nearby or adjoining privately owned lands of such persons who maintain and use such federally owned noncropland under agreement with the Federal agency having jurisdiction thereof.

(b) The program is not applicable to: (1) Any department or bureau of the U.S. Government or any corporation wholly owned by the United States; (2) noncropland owned by the United States which was acquired or reserved for conservation purposes, or which is to be retained permanently under Government ownership, including, but not limited to, grazing lands administered by the Forest Service of the U.S. Department of Agriculture, or by the Bureau of Land Management (including lands administered under the Taylor Grazing Act), or the Fish and Wildlife Service of the U.S. Department of the Interior, except as indicated in paragraph (a)(7) of this section; and (3) nonprivate persons for performance on any land owned by the United States or a corporation wholly owned by it.

§ 701.61 Delegation of authority.

No delegation contained in this program to a State or county committee shall preclude the Deputy Administrator, or his designee, from determining any question arising under the program or from reversing or modifying any determination made by a State or county committee.

CONSERVATION PRACTICES FOR STATE AND COUNTY PROGRAMS

§ 701.71 Practices primarily for establishment of permanent protective cover.

(a) *Practice A–2.* Establishing permanent vegetative cover to protect the soil and prevent or reduce the pollution of water, air, or land, including, as needed, land use adjustment.

(b) *Practice A–3.* Establishing vegetative cover in crop rotation to retard erosion, improve soil structure, permeability, or water-holding capacity, and prevent or reduce the pollution of water, air, or land.

(c) *Practice A–5.* Establishing a contour stripcropping system to protect soil from wind or water erosion and to prevent or reduce the pollution of water, air, or land.

(d) *Practice A–6.* Establishing a field stripcropping system to protect soil from wind or water erosion and to prevent or reduce the pollution of water, air, and land.

(e) *Practice A–7.* Establishing a stand of trees or shrubs for soil protection, forestry purposes, or environmental improvement for ornamental purposes.

(f) *Practice A–8.* Planting trees or shrubs to protect soil from erosion and to prevent or reduce the pollution of water, air, or land.

§ 701.72 Practices primarily for improvement and protection of established vegetative cover.

(a) *Practice B–1.* Improving permanent vegetative cover to provide soil or watershed protection and to prevent or reduce the pollution of water, air, or land.

(b) *Practice B–2.* Improving or protecting permanent vegetative cover on pasture and rangeland to provide soil or watershed protection and to prevent or reduce the pollution of water, air, or land.

(c) *Practice B–3.* Controlling competitive shrubs on range or pastureland to permit growth of adequate desirable vegetative cover for soil protection and to prevent or reduce the pollution of water, air, or land.

(d) *Practice B–4.* Treating noncrop grazing land by mechanical means to prevent soil loss, retard runoff, improve water penetration, and prevent or reduce the pollution of water, air, or land.

(e) *Practice B–5.* Constructing wells for livestock water as a means of protecting vegetative cover or to make practicable the use of the land for vegetative cover so as to prevent soil erosion and to prevent or reduce the pollution of water, air, or land.

(f) *Practice B–6.* Developing springs or seeps for livestock water as a means of protecting vegetative cover or to make practicable the use of the land for vegetative cover so as to prevent soil erosion and to prevent or reduce the pollution of water, air, or land.

(g) *Practice B–7.* Constructing or sealing water impoundment reservoirs to provide water for specified agricultural uses and to enhance the environment.

(h) *Practice B–8.* Installing pipelines or other facilities for livestock water as a means of protecting vegetative cover or to make practicable the use of the land for vegetative cover so as to prevent soil erosion and to prevent or reduce the pollution of water, air, or land.

(i) *Practice B–10.* Improving or protecting a stand of forest trees intended for timber production, pulpwood, posts, etc., and to enhance the environment.

§ 701.73 Practices primarily for the conservation and disposal of water.

(a) *Practice C–1.* Establishing sod waterways to prevent soil erosion and to prevent or reduce pollution of water, air, or land.

(b) *Practice C–2.* Establishing permanent vegetative cover on problem areas to prevent erosion and pollution.

(c) *Practice C–4.* Constructing terrace systems to detain or control the flow of water, check soil erosion, conserve water, and prevent or reduce the pollution of water, air, or land.

(d) *Practice C–5.* Constructing diversion terraces, ditches, or dikes to intercept runoff and divert excess water to protected outlets, protect soil from erosion, and prevent or reduce pollution of water, air, or land.

(e) *Practice C–6.* Constructing erosion control dams to prevent or heal gullying or to retard or reduce runoff of water so as to prevent erosion and prevent or reduce the pollution of water or land.

(f) *Practice C–7.* Installing structures to protect water outlets and channels that dispose of excess water and to prevent or reduce pollution of water or land.

(g) *Practice C–12.* Reorganizing irrigation systems to conserve water, prevent erosion, and prevent or reduce the pollution of water or land.

(h) *Practice C–15.* Lining existing irrigation ditches to prevent erosion and loss of water by seepage and to prevent or reduce the pollution of water or land.

(i) *Practice C–16.* Constructing spreader ditches or dikes to divert and spread runoff water to prevent erosion, to permit beneficial use of runoff, to replenish ground water supply, or to prevent or reduce pollution of water or land.

§ 701.74 Practices primarily for establishing temporary protective vegetative cover.

(a) *Practice D–1.* Establishing vegetative cover for winter protection from erosion and to prevent or reduce pollution of water, air, or land.

(b) *Practice D–2.* Establishing vegetative cover for summer protection from

erosion and to prevent or reduce pollution of water, air, or land.

§ 701.75 Practices primarily for the temporary protection of soil from wind and water erosion.

(a) *Practice E–1.* Stubble mulching to improve soil permeability, to protect soil from wind and water erosion, and to prevent or reduce pollution of water, air, or land.

(b) *Practice E–2.* Establishing a contour farming system on nonterraced land to protect soil from wind or water erosion and to prevent or reduce pollution of water, air or land.

§ 701.76 Practices to meet special county conservation needs.

(a) *Practice F–1: Special conservation practices.* Consistent with the goals and objectives set forth in § 701.2, the county program development group may approve for use in a county, practices included in this part for which there is need locally on a substantial number of farms but which are not selected for use in the State. Such approval shall be subject to review by the Director, Conservation and Land Use Program Division, ASCS, as to compliance with the provisions contained in this part.

(b) *Practice F–2: County conservation practices.* Consistent with the goal and objectives set forth in § 701.2, the Director, Conservation and Land Use Programs Division, ASCS, may approve for use in a county, practices which are not included in this part which are needed to meet particular conservation problems that exist on a substantial number of farms in the county. Such approval may be given only upon the recommendation of the State and county program development groups, and their finding that the practice will adequately meet the conservation problem and is the most enduring solution to the problem practicably attainable under existing circumstances.

(c) *Practice F–3: Practices to meet new conservation problems.* Consistent with the goal and objectives set forth in § 701.2, the Director, Conservation and Land Use Programs Division, ASCS, may approve for use in a county, practices for the treatment of critical conservation problems that exist on a substantial number of farms, primarily those which have arisen subsequent to initiation of the program in the county. Such approval may be given upon recommendation of the State and county program development groups, and their finding that the proposed practice will adequately meet the conservation problems, that treatment of the problem cannot be safely delayed, and that the practice will not be carried out to the needed extent without cost-sharing.

(d) *Practice F–4: Emergency conservation measures to restore to productive use land damaged by natural disasters.* (1) Emergency conservation practices may be approved by the Director, Conservation and Land Use Programs Division, ASCS, upon recommendation of State and county development groups, for use only in counties designated by the Secretary as counties in which wind erosion, floods, hurricanes, or other natural disasters have created new conservation problems which (i) if not treated will impair or endanger the land, (ii) materially affect the productive capacity of the land, (iii) represent damage which is unusual in character and, except for wind erosion, is not of the type which would recur frequently in the same area, and (iv) will be so costly to rehabilitate that Federal assistance is required to return the land to productive agricultural use.

(2) Cost-sharing may be offered under this practice only for replacing or restoring a practice or restoring the land to its normal productive capacity; and may not be offered for the solution of conservation problems existing prior to the disaster involved.

(3) Costs of this practice will be shared only for eligible measures carried out by a person on his land or, with permission of the owners or operators of adjacent or nearby land, on such adjacent or nearby lands provided performance of the practice on such land is for the primary benefit of the eligible person's land and is the most practicable way of solving the problem. To be eligible for cost-sharing, approved measures must be carried out during the program year for which the practice approval was issued and cost-sharing must be requested by the farm or ranch operator within 30 days after the practice is approved for use in the county or before the date on which performance of the eligible measures is started, whichever is the later.

(4) The cost-share computed for any person for this practice shall not be increased in accordance with § 701.45, and shall not be included with the cost-shares computed for such person for other practices in applying the maximum cost-share limitation in § 701.46. The total of all cost-shares for this practice to any person with respect to farms and ranches in any one county shall not exceed the sum of $2,500, except that, with the written prior approval of the State committee or the Deputy Administrator, as applicable, a higher maximum may be approved in individual cases upon justification by the person of exceptional financial need and his inability to otherwise carry out the work. In accordance with the preceding sentence, the State committee may authorize a maximum not in excess of $10,000, and the Deputy Administrator may authorize a maximum in excess of $10,000.

§ 701.77 Wildlife conservation practices with soil and water conservation benefits.

(a) *Practice G–1.* Establishing vegetative cover to provide food plots, habitat, or cover beneficial to wildlife.

(b) *Practice G–2.* Developing or restoring shallow water areas for wildlife.

(c) *Practice G–3.* Constructing ponds or dams to impound water for wildlife.

(d) *Practice G–4.* Other wildlife conservation practices with soil and water conservation benefits. Consistent with the goal and objectives set forth in § 701.2, the Director, Conservation and Land Use Programs Division, ASCS, may approve other wildlife practices for inclusion in the State program, upon recommendation of the State program development group; or for inclusion in county programs upon the recommendation of State and county program development groups.

§ 701.78 Practices primarily for management of animal wastes to prevent or reduce pollution of water, land, or air.

(a) *Practice I–1.* Constructing animal waste lagoons to prevent or reduce the pollution of water, land, or air where there are soil and water conservation benefits.

(b) *Practice I–2.* Constructing animal waste storage facilities to prevent or reduce the pollution of water, land, or air where there are soil and water conservation benefits.

(c) *Practice I–3.* Constructing diversions for the management of animal wastes to prevent or reduce the pollution of water, land, or air where there are soil and water conservation benefits.

(d) *Practice I–4.* Other animal waste management practices. Consistent with the goal and objectives set forth in § 701.2, the Director, Conservation and Land Use Programs Division, ASCS, may approve other animal waste management practices with soil and water conservation benefits for inclusion in the State programs, upon recommendation of the State program development group; or for inclusion in county programs, upon recommendation of State and county program development groups.

§ 701.79 Practices primarily for control of sediment and chemically contaminated runoff to prevent or reduce pollution of water, land, or air.

(a) *Practice J–1.* Constructing retention structures to prevent or reduce the pollution of land, water, or air from sediment and chemically contaminated runoff where there are soil and water conservation benefits.

(b) *Practice J–2.* Establishing or installing control measures to prevent or reduce the pollution of water or land from sediment and chemically contaminated runoff where there are soil and water conservation benefits.

(c) *Practice J–3.* Stabilizing a source of sediment to prevent or reduce the pollution of land, water, or air where there are soil and water conservation benefits.

§ 701.80 Practices primarily for disposal of woodland, crop, and orchard residues without burning to prevent or reduce air or water pollution.

(a) *Practice K–1.* Disposing of woodland residues without burning to prevent or reduce air or water pollution and improve soil structure and permeability.

(b) *Practice K–2.* Disposing of crop or orchard residues without burning to prevent or reduce air or water pollution and improve soil structure and permeability.

§ 701.81 Practice primarily for disposal of solid wastes to prevent or reduce pollution of land, water, or air.

Practice L–1. Constructing disposal pits for solid wastes to prevent or reduce the pollution of land, water, or air where there are soil and water conservation benefits.

§ 701.82 Other pollution abatement practices.

(a) *Practice M.* Other pollution abatement practices. Consistent with the goals and objectives set forth in § 701.2, the Director, Conservation and Land Use Programs Division, ASCS, may approve other pollution abatement practices with soil and water conservation benefits for inclusion in the State program, upon recommendation of the State program development group; or for inclusion in county programs, upon recommendation of the State and county program development groups.

Effective date. Since farmers are now completing their plans for the 1971 program year, it is essential that the foregoing regulations governing the Rural Environmental Assistance Program for 1971 and subsequent years be made effective as soon as possible. It is hereby found and determined that compliance with the notice, public procedure, and 30-day effective date provisions of 5 U.S.C. 553 is impracticable and contrary to the public interest. Accordingly, the regulations shall become effective upon publication in the FEDERAL REGISTER (9–11–71).

Proposals for amendment or modification of the regulations insofar as they relate to 1972 and subsequent years are invited. The proposals should be accompanied by a written statement in explanation and support of the proposals and mailed within 30 days of the date of publication of this part in the FEDERAL REGISTER. The proposals may be addressed to the Deputy Administrator, State and County Operations, ASCS, U.S. Department of Agriculture, Washington, D.C. 20250.

Signed at Washington, D.C., on September 2, 1971.

CARROLL G. BRUNTHAVER,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.71-13390 Filed 9-10-71;8:48 am]

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

SUBCHAPTER E—DETERMINATION OF SUGAR COMMERCIALLY RECOVERABLE

[Sec. 831.4, Rev. 1, Supp. 8]

PART 831—BEET SUGAR AREA

Rates of Recoverability; 1971 Crop

Pursuant to section 302(a) of the Sugar Act of 1948, as amended, § 831.18 is added to read as follows:

§ 831.18 Rates of recoverability; 1971 crop.

The hundredweight of sugar, raw value, commercially recoverable from sugar beets of the 1971 crop shall be computed by multiplying the net weight thereof in tons, at the time of delivery to a processor, by the rate of commercially recoverable sugar which is applicable under the following provisions of this section:

(a) For sugar beets marketed within a settlement area under any type of agreement other than "individual test" or a "combined individual-cossette test" contract, the rate of commercially recoverable sugar per ton of beets with respect to each settlement area is established as follows:

Sugar companies and settlement areas	1964–70 average sugar content	Rate of commercially recoverable sugar
	Percent	*Hundredweight*
Amalgamated Sugar Co.:		
Idaho District and Elwyhee District	16.31	2.919
Cache, Franklin, and Ogden District	15.57	2.787
Utah-Idaho Sugar Co.:		
Idaho District and Layton, Idaho, District	15.76	2.821
American Crystal Sugar Co.:		
Moorehead, Crookston, and East Grand Forks, Minn., and Drayton, N. Dak., factories	15.56	2.785
Buckeye Sugars, Inc.:		
Ottawa, Ohio	14.97	2.680

(b) For sugar beets marketed under "individual test" contracts, other than those sugar beets marketed for processing by the American Crystal Sugar Co. at their Mason City, Iowa, factory, the rate of commercially recoverable sugar per ton of beets shall be computed by multiplying 20 hundredweight by the percentage of sugar content of such beets, and then multiplying the result by 85.7 percent (the average extraction rate, as adjusted for shrink, effective for such beets). This computation can be shortened by the use of the factor of 0.1714. As an example, a content of 16.37 when multiplied by 0.1714 would result in a rate of commercially recoverable sugar of 2.806 hundredweight.

(c) For sugar beets marketed under "combined individual-cossette test" contracts, including those sugar beets marketed for processing by the American Crystal Sugar Co. at their Mason City, Iowa, factory, the rate of commercially recoverable sugar per ton of beets for a producer shall be computed by multiplying 20 hundredweight by the adjusted percentage of sugar content of the beets delivered by such producer and then multiplying the result by 89.5 percent (the average extraction rate effective for such beets). This computation can be shortened by the use of the factor of 0.1790. As an example, an adjusted content of 16.37 when multiplied by 0.1790 would result in a rate of commercially recoverable sugar of 2.930 hundredweight. The adjusted percentage of sugar content for each producer shall be obtained by multiplying the weighted average percentage of sugar content of the beets delivered by him by a factor, the numerator of which shall be the appropriate factory cossette test average set forth below and the denominator of which shall be the weighted average sugar content of all beets delivered to the factory at such time as the Agricultural Stabilization and Conservation State Committee determines that at least 97 percent of the current crop of beets has been delivered to such factory.

Sugar companies and settlement areas	*1964–70 average sugar content (percent)*
Amalgamated Sugar Co.: Nyssa-Nampa District	15.26
American Crystal Sugar Co.: Mason City, Iowa, Factory	14.60
Utah-Idaho Sugar Co.:	
Toppenish-Moses Lake District	15.54
Utah area (also includes beets from the Layton, Utah, area and the Price-Wellington area)	15.46

STATEMENT OF BASES AND CONSIDERATIONS

Section 831.4 (7 CFR 831.4) provides the method of determining and establishing amounts of sugar commercially recoverable from sugar beets and provides that the rates shall become effective when public notice thereof is given in the FEDERAL REGISTER.

Pursuant to that regulation, this supplement sets forth the rates of recoverability as determined for the 1971 crop. Definitive rates are specified for the various settlement areas wherein sugar beets are marketed under "cossette test" contract. Within these areas, the rates give effect to 1964–70 average percentages of sugar content and the 1965–69 national average extraction rate of beet sugar, raw value, of 89.5 percent.

In lieu of an extensive table of definitive rates applicable to sugar beets of various percentages of sugar content as marketed under "individual test" contracts, this supplement provides that the rate of recoverability per ton of beets of any given percentage of sugar content so marketed may be computed by multiplying such content by the factor of 0.1714. This factor gives effect to the average rate of extraction of sugar, raw value, of 85.7 percent, as applicable to individual test beets. Listings of the applicable rates (expressed in hundredths) will be available for inspection at county ASCS offices in sugar beet producing counties. Similarly, for beets marketed under "combined individual-cossette test" contracts, a factor of 0.1790 may be used to give effect to the average extraction rate of 89.5 percent. The difference between 89.5 and 85.7 represents the average "shrink" in percentage of sugar content between the time of delivery and the time of processing for all beets of the crops of 1965–69 marketed under individual test contracts. The lower percentage is not specified for beets marketed under combined individual-cossette tests because the results of such tests include adjustments to the cossette basis.

The percentages of 89.5 and 85.7 as determined herein for the 1971 crop, compare with the percentages of 90.8 and 87.1 for the 1970 crop.

Beginning with the 1964 crop, the regulations have provided that the 7-year factory cossette test average be substituted for the current year's factory cossette test average in calculating the factor to be applied to individual grower's sugar content for those growers marketing beets under "combined individual-cossette contracts." The average sugar content for each factory shown in paragraph (c) of § 831.18 represents the weighted average of the factory's cossette tests for the crops 1964–70.

A notice of proposed rule making was not given for this determination as it follows mathematical formulas which make use of actual operating and production data reported by the sugar factories involved. Therefore, no discretionary decisions are involved and a public recommendation would not change the data. Public notice is, therefore, unnecessary.

Accordingly, I hereby find and conclude that the foregoing determination will effectuate the applicable provisions of the Act.

(Secs. 302, 303, 304, 403, 61 Stat. 930 as amended, 932; 7 U.S.C. 1132, 1133, 1134)

Effective date: Date of publication (9–11–71).

Signed at Washington, D.C., on September 2, 1971.

E. J. PERSON,
Acting Deputy Administrator, State and County Operations, Agricultural Stabilization and Conservation Service.

[FR Doc.71-13412 Filed 9-10-71;8:53 am]

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

[Lemon Reg. 497]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.797 Lemon Regulation 497.

(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 September 7, 1971.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period September 12, through September 18, 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: September 9, 1971.

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

[FR Doc.71-13522 Filed 9-10-71;8:54 am]

PART 948—IRISH POTATOES GROWN IN COLORADO AREA NO. 2

Limitation of Shipments

Notice of rule making with respect to a proposed limitation of shipments regulation to be made effective under Marketing Agreement No. 97 and Order No. 948, both as amended (7 CFR Part 948), regulating the handling of Irish potatoes grown in Area No. 2 (San Luis Valley Colorado), was published in the FEDERAL REGISTER August 28, 1971 (36 F.R. 17359). This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.). Interested persons were afforded an opportunity to file written data, views, or arguments pertaining thereto not later that 5 days after publication. None was filed.

Statement of consideration. The notice was based on the recommendation and information submitted by the Area No. 2 Committee, established pursuant to the said amended marketing agreement and order, and other available information. The recommendations of the committee reflect its appraisal of the composition of the 1971 crop in Area No. 2 and of the marketing prospects for this season.

The regulation provided herein is necessary to prevent potatoes of lower grades, undesirable sizes, and potatoes of lesser maturities from being distributed in the channels of commerce to improve the returns to producers for preferred grades and sizes. The specific requirements, hereinafter set forth, regulate the handling of potatoes by grade, size, and maturity so as to (1) promote orderly marketing, (2) establish minimum quality standards for potatoes shipped from the production area, and (3) maximize returns to the producers pursuant to the declared policy of the act.

The regulations with respect to special purpose shipments for other than fresh market use are designed to facilitate the handling of potatoes for such outlets.

Findings. After consideration of all relevant matter presented, including that in the aforesaid notice which was based upon the recommendations of the Area No. 2 Committee, and other available information, it is hereby found that the limitation of shipments regulation, as hereinafter set forth, will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for making this regulation effective at the time herein provided and 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) shipments of 1971 crop potatoes grown in Area No. 2 will begin on or about the effective date specified herein, (2) to maximize benefits to producers, this regulation should apply to as many shipments as possible during the effective period, (3) similar regulations have been in effect during previous marketing seasons for potatoes produced in Area No. 2, (4) producers and handlers have been notified that such a regulation was proposed and have not objected to such regulation or the effective date thereof, and (5) compliance with this regulation will not require any special preparation on the part of persons subject thereto which cannot be completed by such effective date.

§ 948.366 Limitation of shipments.

During the period September 16, 1971, through June 30, 1972, no person shall handle any lot of potatoes grown in Area

No. 2 unless such potatoes meet the requirements of paragraphs (a) and (b) of this section, or unless such potatoes are handled in accordance with paragraphs (c), (d), (e), and (f) of this section. The maturity requirements specified in paragraph (b) shall terminate October 31, 1971, at 11:59 p.m., m.s.t.

(a) *Minimum grade and size requirements*—(1) *Round varieties.* U.S. No. 2, or better grade, 2 inches minimum diameter.

(2) *Long varieties.* U.S. No. 2, or better grade, 2 inches minimum diameter, or 4 ounces minimum weight.

(3) *All varieties.* Size B, if U.S. No. 1, or better grade.

(b) *Maturity (skinning) requirements*—(1) *Russet Burbank and Red McClure varieties.* For U.S. No. 2 grade not more than "moderately skinned" and for other grades not more than "slightly skinned."

(2) *All other varietids.* Not more than "moderately skinned."

(c) *Special purpose shipments.* (1) The grade, size, maturity and inspection requirements of paragraphs (a), (b), and (f) of this section and the assessment requirements of this part shall not be applicable to shipments of potatoes for:

(i) Livestock feed;

(ii) Relief or charity; or

(iii) Canning, freezing, and "other processing" as hereinafter defined.

(2) The grade, size, maturity and inspection requirements of paragraphs (a), (b), and (f) of this section shall not be applicable to shipments of seed pursuant to § 948.6 but such shipments shall be subject to assessments.

(d) *Safeguards.* Each handler of potatoes which do not meet the grade, size, and maturity requirements of paragraphs (a) and (b) of this section and which are handled pursuant to paragraph (c) of this section for any of the special purposes set forth therein shall,

(1) Prior to handling, apply for and obtain a Certificate of Privilege from the committee;

(2) Furnish the committee such reports and documents as requested, including certification by the buyer or receiver as to the use of such potatoes, and

(3) Bill each shipment directly to the applicable processor or receiver.

(e) *Minimum quantity.* For purposes of regulation under this part, each person may handle up to but not to exceed 1,000 pounds of potatoes without regard to inspection and the requirements of paragraphs (a) and (b) of this section, but this exception shall not apply to any shipment which exceeds 1,000 pounds of potatoes.

(f) *Inspection.* (1) No handler shall handle any potatoes for which inspection is required unless an appropriate inspection certificate has been issued with respect thereto and the certificate is valid at the time of shipment. For purposes of operation under this part it is hereby determined pursuant to paragraph (d) of § 948.40, that each inspection certificate shall be valid for a period not to exceed 5 days following the date of inspection as shown on the inspection certificate.

(2) No handler may transport or cause the transportation by motor vehicle of any shipment of potatoes for which an inspection certificate is required unless each shipment is accompanied by, and made available for examination at any time upon request, a copy of the inspection certificate applicable thereto.

(g) *Definitions.* The terms "U.S. No. 1," "U.S. No. 2," "slightly skinned," and "moderately skinned" shall have the same meaning as when used in the U.S. Standards for Potatoes (§§ 51.1540–51.1566 of this title (35 F.R. 18257)), effective September 1, 1971, including the tolerances set forth therein. The term "other processing" has the same meaning as the term appearing in the act and includes, but is not restricted to, potatoes for dehydration, chips, shoestrings, starch, and flour. It includes only that preparation of potatoes for market which involves the application of heat or cold to such an extent that the natural form or stability of the commodity undergoes a substantial change. The act of peeling, cooling, slicing, or dicing, or the application of material to prevent oxidation does not constitute "other processing." Other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 97, as amended, and this part.

(h) *Applicability to imports.* Pursuant to section 608e–1 of the act and § 980.1, *Import regulations* (§ 980.1 of this chapter), Irish potatoes of the red skinned round type, except certified seed potatoes, imported into the United States during the period September 16, 1971, through June 30, 1972, shall meet the grade, size, and quality requirements specified in paragraph (a) (1) or (3) of this section, and during the period September 16, 1971, through October 31, 1971, shall meet the minimum maturity requirement of paragraph (b) of this section, namely not more than "moderately skinned."

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

Dated: September 8, 1971, to become effective September 16, 1971.

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

[FR Doc.71-13388 Filed 9-10-71;8:47 am]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

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

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1971 Crop Corn Loan and Purchase Program

Correction

In F.R. Doc. 71-11735 appearing at page 15521 in the issue of Tuesday, August 17, 1971, the following changes should be made in § 1421.116(a):

1. The rate per bushel for Peoria County, Ill., now reading "1.12", should read "1.09".

2. The rate per bushel for Pope County, Ill., now reading "1.09", should read "1.12".

3. The county in Indiana reading "Vigs" should read "Vigo".

4. The rate per bushel for Swift County, Minn., now reading "1.02", should read "1.00".

5. The county in South Dakota reading "Devison" should read "Davison".

Title 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice

PART 214—NONIMMIGRANT CLASSES

Students

Reference is made to the notice of proposed rule making which was published in the FEDERAL REGISTER on June 24, 1971 (36 F.R. 12038), pursuant to section 553 of title 5 of the United States Code (80 Stat. 383) and in which there were set out the terms of the proposed amendments to §§ 214.2(f) (1a) and (3) and 214.3 (g), (j), and (k) pertaining to students, their employment, and the approval of schools for attendance by nonimmigrant students. Representations which were received concerning the proposed rules of June 24, 1971, have been considered. Those proposed amendments to §§ 214.2(f)(1a), 214.3 (g) and (j) pertaining to a full course of study and the approval of schools for attendance by nonimmigrant students will not be adopted. No change has been made in those proposed amendments to §§ 214.2 (f)(3) and 214.3(k) relative to student employment and the issuance of certificates of eligibility. The proposed rules as set out below are hereby adopted:

1. The third and 11th sentences are amended and a new sentence is added between the existing fifth and sixth sentences of subparagraph (3) of paragraph (f) *Students* of § 214.2 *Special requirements for admission, extension, and maintenance of status* to read as follows:

(3) *Employment.* * * * Permission to accept or continue employment because of economic necessity may be granted in increments of not more than 12 months each and while school is in session such employment may not exceed 20 hours per week. * * * However, when the course of study completed by the alien in this country was of less than 18 months' duration, permission may be granted to engage in employment for practical training for an aggregate number of months not exceeding the length of that course of study unless, in the case of a student who was engaged in postgraduate studies at a college, university or seminary, the district director and the recommending school agree that permission for a greater number of months, not exceeding the permissible maximum of 18 months, is

warranted. * * * A student who is offered this kind of on-campus employment, or any other on-campus employment which will not displace a U.S. resident, does not require Service permission to be engaged in such employment. * * *

2. Paragraph (k) *Issuance of certificates of eligibility* of § 214.3 *Petitions for approval of schools* is amended by adding the following sentence between the existing first and second sentences: "The Form I-20 must be issued in the United States by an authorized school official."

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103)

The basis and purpose of the above-prescribed regulations are to limit nonimmigrant student employment permission granted on the basis of economic necessity to 20 hours per week while school is in session; to limit generally the period of employment for practical training granted nonimmigrant students who have completed in this country a course of study of relatively short duration, to a period not exceeding the length of the course of study; and to provide that certificates of eligibility issued to nonimmigrant students shall be issued in the United States by an authorized school official.

This order shall be effective on the date of publication in the FEDERAL REGISTER (9-11-71). Compliance with the provisions of section 553 of title 5 of the United States Code (80 Stat. 383) as to delayed effective date is unnecessary in this instance and would serve no useful purpose because the persons affected thereby will not require additional time to prepare for the effective date of the regulations.

Dated: September 7, 1971.

RAYMOND F. FARRELL,
Commissioner of Immigration and Naturalization.

[FR Doc.71-13404 Filed 9-10-71;8:53 am]

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 50—LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

Quality Assurance Criteria for Fuel Reprocessing Plants

On April 10, 1971, the Commission published in the FEDERAL REGISTER (36 F.R. 6903) proposed amendments to its regulation, 10 CFR Part 50, "Licensing of Production and Utilization Facilities," which would require applicants for a license to construct or operate a fuel reprocessing plant to comply with the quality assurance requirements of appendix B to Part 50, "Quality Assurance Criteria for Nuclear Power Plants."

All interested persons were invited to submit written comments and suggestions for consideration in connection with the proposed amendments within sixty (60) days after publication of the notice in the FEDERAL REGISTER. After careful consideration of the material received in response to the notice of proposed rule making and other factors involved, the Commission has adopted the proposed amendments. The text of the amendments set out below is identical with the text of the proposed amendments published April 10, 1971.

Fuel reprocessing plants include structures, systems, and components that prevent or mitigate the consequences of postulated accidents that could cause undue risk to the health and safety of the public. The purpose of the amendments is to provide explicit quality assurance requirements for the design, construction, and operation of those structures, systems, and components by making appendix B applicable to fuel reprocessing plants. The requirements of appendix B will apply to all activities during the design, construction, and operating phases of the fuel reprocessing plants which affect the safety-related functions of such structures, systems, and components.

The quality assurance requirements established by these criteria are intended to assure that:

(a) Applicable regulatory requirements and the design bases, as defined in § 50.2 and as specified in the license application, for structures, systems, and components are correctly translated into specifications, drawings, procedures, and instructions.

(b) Systems and components fabricated and tested in manufacturers' facilities conform to these specifications, drawings, procedures, and instructions.

(c) Structures, systems, and components constructed and tested at the facility conform to these specifications, drawings, procedures, and instructions.

(d) Succeeding activities, such as operating, testing, repairing, maintaining, and modifying, are conducted in accordance with quality assurance practices consistent with those employed during design and construction.

These criteria will also be used for guidance in evaluating the adequacy of the quality assurance programs in use by existing holders of construction permits and operating licenses for fuel reprocessing plants.

Pursuant to the Atomic Energy Act of 1954, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendments to Title 10, Chapter I, Code of Federal Regulations, Part 50, are published as a document subject to codification effective thirty (30) days after publication in the FEDERAL REGISTER.

In § 50.34 (a)(7) and (b)(6)(ii) and in Appendix B the words "and fuel reprocessing plants" are added after the words "nuclear power plants" where they appear.

(Secs. 161, 182, 68 Stat. 948, 953; 42 U.S.C. 2201, 2232)

Dated at Germantown, Md., this 2d day of September 1971.

For the Atomic Energy Commission.

W. B. McCOOL,
Secretary of the Commission.

[FR Doc.71-13392 Filed 9-10-71;8:48 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 71-CE-18-AD; Amdt. 39-1290]

PART 39—AIRWORTHINESS DIRECTIVES

Bellanca Model 17-30 Airplanes

Amendment 39-1235 (36 F.R. 12091), AD 71-13-4, effective June 26, 1971, applicable to Bellanca Model 17-30 airplanes, is an airworthiness directive which requires modification of the fuel boost pump electrical circuit in the fuel system on these airplanes. These airplanes were factory-equipped with either Airborne Model 2B6-9, Weldon Model 4020-A2A, or Weldon Model 10050-A fuel boost pumps. Subsequent to the issuance of AD 71-13-4, it has been determined that fuel systems equipped with the Weldon pumps will not function as intended when modified in accordance with the provisions of Paragraph A of AD 71-13-4. The airplane manufacturer is in the process of developing a modification to the Weldon pump installations. Until such time as a satisfactory modification has been accomplished, an improved level of safety can be achieved by establishing cautionary operating limitations for those model aircraft in which either of the affected Weldon fuel boost pumps are installed and by requiring the installation of a placard in these aircraft which reads: "To prevent engine flooding turn off fuel boost pump immediately after fuel pressure is restored." These requirements will be set forth in Part B of the AD as amended. Those Bellanca Model 17-30 airplanes using the Airborne Model 2B6-9 fuel boost pumps must comply with Part A of the AD as amended.

Due to the changes to AD 71-13-4, it is being amended and reissued in its entirety.

Since this amendment is in the interest of safety, it is found that compliance with the notice and public procedure provision of the Administrative Procedure Act is not practical and good cause exists for making this amendment effective in less than thirty (30) days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-1235 (36 F.R. 12091), AD 71-13-4 is amended so that it now reads as follows:

BELLANCA. Applies to Model 17-30 airplanes.

Compliance: As indicated below, unless already accomplished.

To prevent possible engine flooding when using the fuel boost pump, accomplish either Part A or Part B as applicable:

PART A

On those airplanes equipped with Airborne Model 2B6-9 fuel boost pumps (Airplane serial Nos. 30217 through 30262 were delivered from the factory with this model pump installed):

1. Within 50 hours' time in service after June 26, 1971, modify the fuel boost pump electrical circuit by installing a three (3) position toggle switch, a three (3) ohm twenty (20) watt resistor, and a switch guard in accordance with Bellanca Service Letter No. 61A, Revision A, dated April 26, 1971, or later FAA approved revisions.

2. Within 50 hours' time in service after June 26, 1971, insert Airplane Flight Manual, Revision No. 13, dated May 26, 1971, in the Airplane Flight Manual. (Revision No. 13 is included in Bellanca Service Kit SE-2-1040 referred to in Service Letter No. 61A, Revision A.)

3. Any alternate equivalent method of compliance with paragraphs 1 and 2 above must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

PART B

On those airplanes equipped with Weldon fuel boost pumps Models 4020-A2A or 10050-A:

1. Effective immediately, do not operate the fuel boost pump any longer than is necessary to achieve required fuel pressure. (Continued use of the fuel boost pump may cause engine flooding under certain operating conditions.)

2. Within 10 hours' time in service after the effective date of this AD, install a placard beneath or adjacent to the fuel boost pump switch to read as follows: "To prevent engine flooding turn off fuel boost pump immediately after fuel pressure is restored."

NOTE: The operator may make and install this placard using letters approximately one-eighth of an inch in height.

3. Any alternate equivalent method of compliance with paragraphs 1 and 2 of Part B must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

This amendment becomes effective September 14, 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 Kansas City, Mo., on September 3, 1971.

CHESTER W. WELLS,
Acting Director, Central Region.

[FR Doc.71-13375 Filed 9-10-71;8:46 am]

[Docket No. 69-SO-129; Amdt. 39-1288]

PART 39—AIRWORTHINESS DIRECTIVES

Piper Models 28 and 32 Series Airplanes

Amendment 39-865 (F.R. Doc. 69-13125), AD 69-22-2, requires inspection of the control wheels for cracks and replacement, if necessary, on Piper Model PA-28 and PA-32 airplanes. After issuing Amendment 39-865, due to service experience, the agency determined that some cleaning solvents may aggravate any tendency of the control wheels to crack and also, some wheels have cracked after initial inspection. Therefore, the AD is being amended to require repetitive inspections and to caution against using strong solvents to clean control wheels before or after inspection.

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

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-865 (F.R. Doc. 69-13125), AD 69-22-2 is amended as follows:

1. Revise compliance requirements as follows:

Compliance required within 25 hours time in service from the effective date of this AD, unless already accomplished within the last 75 hours time in service, and thereafter at intervals not to exceed 100 hours time in service from the last inspection.

2. Replace paragraph (b) with the following:

(b) Inspect each control wheel for cracks which may extend radially from the retaining pin. Cracks may be evident on the bottom of the control wheel hub where the pin enters the wheel as line cracks on the face or back of the hub as a crack in the hub cavity in line with the pin. The inspection is to be done using either of the following methods:

(1) Use a small pen light next to the surface and inspect under at least a three-power glass. Inspect in at least a one-half inch path from the top of the pin to the bottom on the front and back of the control wheel hub. Cracks, either needle shaped or extending across the entire surface will show as black lines in the light field. If a line is only a scratch, the bottom will always be visible. The wheel should be cleaned with ordinary detergent and water only. The use of chemical cleaners and/or solvents such as acetone must be avoided.

(2) An equivalent inspection method approved by the Chief, Engineering and Manufacturing Branch, FAA Southern Region.

3. Add to paragraph (c):

This AD is applicable to new control wheels of the same part number installed in accordance with this paragraph.

4. Revise paragraph (e):

Piper Service Letter No. 527c, dated August 2, 1971, pertains to this same subject.

This amendment becomes effective September 15, 1971.

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

Issued in East Point, Ga., on September 1, 1971.

GORDON W. BECKER,
Acting Director, Southern Region.

[FR Doc.71-13376 Filed 9-10-71;8:47 am]

[Airspace Docket No. 71-CE-94]

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

Alteration of Control Zone and Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Hutchinson, Kans., control zone and transition area.

Since designation of controlled airspace at Hutchinson, Kans., the instrument approach procedures for the Hutchinson Municipal Airport have been revised with the result that a minor adjustment of the Hutchinson transition area description is necessary to protect the revised approach procedures. In addition, the criteria for designation of controlled airspace for the protection of instrument approach procedures were modified to conform to U.S. Standard for Terminal Instrument Procedures (TERPS). The new criteria requires minor alteration of the Hutchinson control zone and transition area. Action is taken herein to reflect these changes.

Since these alterations are minor in nature, notice, and public procedure hereon have been determined to be both unnecessary and impracticable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective 0901 G.m.t., November 11, 1971, as hereinafter set forth:

In § 71.171 (36 F.R. 2055), the following control zone is amended to read:

HUTCHINSON, KANS.

Within a 5-mile radius of Hutchinson Municipal Airport (latitude 38°03'56" N., longitude 97°51'37" W.).

In § 71.181 (36 F.R. 2140), the following transition area is amended to read:

HUTCHINSON, KANS.

That airspace extending upward from 700 feet above the surface within an 8½-mile radius of Hutchinson Municipal Airport (latitude 38°03'56" N., longitude 97°51'37" W.); within 3½ miles each side of the Hutchinson VORTAC 222° radial, extending from the 8½ mile radius area to 8 miles southwest of the VORTAC; and within 4½ miles southwest and 9½ miles northeast of the Hutchinson ILS localizer northwest course, extending from the airport to 18½ miles northwest of the ILS outer marker; and that airspace extending upward from 1,200 feet above the surface within a 30-mile radius of Hutchinson VORTAC; within 10 miles west and 6 miles east of the Hutchinson VORTAC 025° radial, extending from the 30-mile radius area to 44 miles north of the VORTAC; within 6 miles southwest and 10 miles northeast of the Hutchinson VORTAC 296° radial, extending from the 30-mile radius area to 44 miles northwest of the VORTAC; within 6 miles north and 10 miles south of the Hutchinson VORTAC 266° radial, extending from the 30-mile radius area to 41 miles west of the VORTAC; and the area southwest of Hutchinson bounded on the northeast by the 30-mile radius area, on the south by the north edge of V-12 north, and on the northwest by the southeast edge of V-280, excluding the portion which overlies the Wichita and Salina, Kans. transition areas.

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

Issued in Kansas City, Mo., on August 26, 1971.

JOHN M. CYROCKI,
Director, Central Region.

[FR Doc.71-13380 Filed 9-10-71;8:47 am]

[Airspace Docket No. 71-CE-52]

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

Alteration of Control Zone and Transition Area

On pages 12308 and 12309 of the FEDERAL REGISTER dated June 30, 1971, the Federal Aviation Administration published a notice of proposed rule making which would amend §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the control Zone and transition area at Muskegon, Mich.

Interested persons were given 45 days to submit written comments, suggestions or objections regarding the proposed amendments.

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

These amendments shall be effective 0901 G.m.t., November 11, 1971.

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

Issued in Kansas City, Mo., on September 2, 1971.

CHESTER W. WELLS,
Acting Director, Central Region.

(1) In § 71.171 (36 F.R. 2055), the following control zone is amended to read:

MUSKEGON, MICH.

Within a 5-mile radius of Muskegon County Airport (43°10'16" N., 86°14'09" W.); within 1.5 miles each side of the Muskegon VORTAC 272° radial, extending from the 5-mile-radius zone to 1 mile west of the VORTAC; and within 1.5 miles each side of the ILS back course extending from the 5-mile-radius zone to 10.5 miles northwest of the Muskegon County Airport ILS OM.

(2) In § 71.181 (36 F.R. 2140), the following transition area is amended to read:

MUSKEGON, MICH.

That airspace extending upward from 700 feet above the surface within a 10-mile radius of the Muskegon County Airport (43°10'16" N., 86°14'09" W.); within a 7-mile radius of the Grand Haven Memorial Airpark (43°02'00" N., 86°12'00" W.), Grand Haven, Mich.; within 4.5 miles southwest and 9.5 miles northeast of the Muskegon County Airport ILS localizer southeast course, extending from the 10-mile-radius area to 18.5 miles southeast of the OM; within 4 miles each side of the Muskegon VORTAC 092° radial, extending from the VORTAC to 11.5 miles east of the VORTAC; and within 4½ miles each side of the Muskegon County Airport runway 14 centerline extended to the northwest, extending from the 10-mile-radius area to 17 miles northwest of the Muskegon County Airport ILS OM; and that airspace extending upward from 1,200 feet above the surface within an 18-mile radius of the Muskegon County Airport; within 5 miles each side of a line extending from 43°09'30" N., 86°55'30" W., to 43°18'24" N., 86°24'30" W.; and the airspace southwest of Muskegon bounded on the northeast by the 18-mile-radius area, on the southeast by the Grand Rapids, Mich., transition area on the southwest by V-30, and on the northwest by V-216.

[FR Doc.71-13377 Filed 9-10-71;8:47 am]

[Airspace Docket No. 71-CE-72]

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

Alteration of Control Zone and Transition Area

On page 12911 of the FEDERAL REGISTER dated July 9, 1971, the Federal Aviation Administration published a notice of proposed rule making which would amend §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Peoria, Ill.

Interested persons were given 45 days to submit written comments, suggestions or objections regarding the proposed amendments.

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

These amendments shall be effective 0901 G.m.t., November 11, 1971.

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

Issued in Kansas City, Mo., on September 2, 1971.

CHESTER W. WELLS,
Acting Director, Central Region.

(1) In § 71.171 (36 F.R. 2055), the following control zone is amended to read:

PEORIA, ILL.

Within a 5-mile radius of the Greater Peoria Airport (40°39'47" N., 89°41'22" W.) and within 4.5 miles each side of the Greater Peoria Airport ILS localizer northwest course, extending from the 5-mile-radius zone to 17.5 miles northwest of the airport.

(2) In § 71.181 (36 F.R. 2140), the following transition area is amended to read:

PEORIA, ILL.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the Greater Peoria Airport (40°39'47" N., 89°41'22" W.); within a 7-mile radius of the Ingersoll Airport (40°34'10" N., 90°04'24" W.); within 5 miles northwest and 6.5 miles southeast of the Peoria VORTAC 244° radial extending from the 7-mile-radius area to 34.5 miles southwest of the VORTAC; within 9.5 miles south and 4.5 miles north of the Peoria VORTAC 279° radial, extending from the VORTAC to 18.5 miles west of the VORTAC; within 9.5 miles southwest and 4.5 miles northeast of the Greater Peoria Airport ILS localizer northwest course, extending from 3.5 miles northwest of the airport to 22 miles northwest of the airport; and within 6.5 miles northwest and 5 miles southeast of the Peoria VORTAC 052° radial, extending from the VORTAC to 12 miles northeast of the VORTAC.

[FR Doc.71-13379 Filed 9-10-71;8:47 am]

[Airspace Docket No. 71-CE-71]

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

Designation of Transition Area

On page 12912 of the FEDERAL REGISTER dated July 9, 1971, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Carrollton, Ohio.

Interested persons were given 45 days to submit written comments, suggestions or objections regarding the proposed amendment.

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

This amendment shall be effective 0901 G.m.t., November 11, 1971.

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

Issued in Kansas City, Mo., on September 2, 1971.

CHESTER W. WELLS,
Acting Director, Central Region.

In § 71.181 (36 F.R. 2140), the following transition area is added:

CARROLLTON, OHIO

That airspace extending upward from 700 feet above the surface within an 8½-mile radius of the Carroll County-Tolson Airport (latitude 40°33'45" N., longitude 81°04'30" W.).

[FR Doc.71-13378 Filed 9-10-71;8:47 am]

[Airspace Docket No. 71-CE-100]

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

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the St. Clairsville, Ohio, transition area.

The public use instrument approach procedure for Alderman Field, St. Clairsville, Ohio, has been altered with the result that the present St. Clairsville transition area extension provided for its protection is no longer required. Therefore, it is necessary to revise the St. Clairsville transition area to delete this transition area extension from the present transition area designation. Action is taken herein to effect this change.

Since this alteration will reduce the amount of existing designated airspace in the St. Clairsville, Ohio, terminal area it will not impose an additional burden on any person. Consequently, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective 0901 G.m.t., November 11, 1971, as hereinafter set forth:

In § 71.181 (36 F.R. 2140), the following transition area is amended to read:

ST. CLAIRSVILLE, OHIO

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Alderman Field, St. Clairsville, Ohio (latitude 40°03'30" N., longitude 80°58'00" W.).

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

Issued in Kansas City, Mo., on September 2, 1971.

CHESTER W. WELLS,
Acting Director, Central Region.

[FR Doc.71-13381 Filed 9-10-71;8:47 am]

[Docket No. 7947; Amdt. 91-94]

PART 91—GENERAL OPERATING AND FLIGHT RULES

Extension of Compliance Date for Installation of Altitude Alerting Systems

The purpose of this amendment to Part 91 of the Federal Aviation Regulations is to extend the compliance date for installation of the altitude alerting system or device required by § 91.51.

Section 91.51 was adopted by Amendment 91-57 (effective September 28, 1968, 33 F.R. 12180). As adopted, § 91.51 required that after February 28, 1971, no person may operate a turbojet powered U.S. registered civil airplane unless that airplane is equipped with an approved altitude alerting system or device which is in an operable condition and meets certain specified requirements.

As a result of unforeseen problems in the manufacture and distribution of the altitude alerting equipment, causing a delay in timely installation, many affected operators petitioned for rule making to extend the February 28, 1971 compliance date. Accordingly, the FAA adopted Amendment 91-81 (35 F.R. 16793) to extend the compliance date of the section for 6 months to August 31, 1971.

The FAA has recently received numerous petitions for exemptions from air carriers and other interested persons requesting that the August 31, 1971 compliance date be extended. Based on the information contained in these petitions and further FAA study, it appears that substantial procurement, delivery, installation, and reliability problems have arisen with regard to altitude alerting systems or devices. Therefore, we believe that an extension of the compliance date of § 91.51 is in the public interest. Accordingly, § 91.51 has been amended to extend the compliance date thereof to February 29, 1972.

Since this amendment does not change the existing rule, but merely extends the time for compliance, I find that public notice and procedure thereon are not necessary, and that the amendment may become effective in less than 30 days.

In consideration of the foregoing, § 91.51(a) of the Federal Aviation Regulations is amended, effective August 31, 1971, by striking out "August 31, 1971," and inserting "February 29, 1972," in place thereof.

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

Issued in Washington, D.C., on September 3, 1971.

K. M. SMITH,
Deputy Administrator.

[FR Doc.71-13382 Filed 9-10-71;8:47 am]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 71-233]

PART 1—GENERAL PROVISIONS

Port of Entry; Harrisburg, Pa.

SEPTEMBER 8, 1971.

Notice of proposal to designate Harrisburg, Pa., as a port of entry in the Customs district of Philadelphia, Pa. (Region III), was published in the FEDERAL REGISTER of August 20, 1971 (36 F.R. 16194). The proposal was based upon the need to provide better Customs service in the Philadelphia, Pa., district. No objections to the proposal were received.

Accordingly, by virtue of the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), which was delegated to the Secretary of the Treasury by the President by Executive Order No. 10289, September 17, 1951 (3 CFR Ch. II), and pursuant to authority provided by Treasury Department Order No. 190, Rev. 7 (34 F.R. 15846), Harrisburg, Pa., is hereby designated a port of entry in the Philadelphia, Pa., district (Region III), effective as of September 15, 1971.

The geographical limits of the port of Harrisburg will include all the cities, boroughs, villages, and other political subdivisions within the outer confines of the following townships located in Dauphin County: Derry, Londonderry, West Hanover, East Hanover, South Hanover, Lower Paxton, Susquehanna, Swatara, and Lower Swatara; the following townships located in Cumberland County: Upper Allen, Lower Allen, East Pennsboro, Hampden, Silver Spring, and Monroe; and Fairview Township located in York County, all in the State of Pennsylvania.

To reflect this change, the table in § 1.2(c) of the Customs Regulations is amended by inserting in the column headed "Ports of entry" in the Philadelphia, Pa., district (Region III) "Harrisburg, Pa. (T.D. 71-233)," directly below Chester, Pa.

(80 Stat. 379, sec. 1, 37 Stat. 434, sec. 1, 38 Stat 623, as amended, R.S. 251, as amended, sec. 624, 46 Stat. 759; 5 U.S.C. 301, 19 U.S.C. 1, 2, 66, 1624)

It is desirable to make the Customs port of entry available to the public as soon as possible. Therefore, good cause is found for dispensing with the delayed effective date provision of 5 U.S.C. 553(d).

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

[FR Doc.71-13492 Filed 9-10-71;8:54 am]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart D—Administration of Educational Benefits; 38 U.S.C. Chapters 34, 35 and 36

LAW COURSES

This regulation measures law courses, in terms of "full-time" and "part-time", largely on the basis of length of course rather than on the fact that they may be day or evening courses. The latter distinction was pragmatic and not substantive and no longer is in accord with reality.

Section 21.4274 is revised to read as follows:

§ 21.4274 Law courses.

(a) *Accredited.* A law course in an accredited law school leading to a standard professional law degree will be assessed on the basis of credit hours as provided in § 21.4273(a) if it is pursued at a rate which if continued will assure completion of 1,080 hours of classroom instruction in law during a period of 90 calendar weeks, i.e., at the rate of 360 hours during a period of 30 weeks per year. If the rate at which the course is pursued will not assure completion within that period, the course will be assessed as full-time if pursued for credit of at least 14 semester hours or the equivalent; or if pursued for at least 12 hours or the equivalent and the school charges full-time tuition or considers it to be full-time attendance for other administrative purposes; otherwise it will be measured as not more than three-fourths time.

(b) *Nonaccredited.* A law course leading to a standard professional law degree, completion of which will satisfy State educational requirements for admission to legal practice, pursued in a nonaccredited law school which requires for admission to the course at least 60 standard semester units of credit or the equivalent in quarter units of credit, will be assessed on the basis of 12 class sessions per week for full-time attendance. If the course does not meet these requirements it will

be assessed on the basis of clock hours of attendance per week.

(72 Stat. 1114; 38 U.S.C. 210)

This VA regulation is effective the date of approval.

Approved: September 7, 1971.

By direction of the Administrator.

[SEAL] FRED B. RHODES,
Deputy Administrator.

[FR Doc.71-13398 Filed 9-10-71;8:53 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 14—Department of the Interior

MISCELLANEOUS AMENDMENTS TO CHAPTER

Pursuant to the authority of the Secretary of the Interior, contained in 5 U.S.C. 301, Parts 14-1, 14-2, 14-3, 14-7, and 14-30 of Chapter 14, Title 41 of the Code of Federal Regulations are hereby amended as set forth below.

It is the general policy of the Department of the Interior to allow time for interested parties to take part in the rulemaking process. However, the new section (§ 14-1.710-4) and the amendments and revisions contained herein are minor and entirely administrative in nature. Therefore, the public rulemaking process is waived and this addition, plus changes will become effective upon publication in the FEDERAL REGISTER (9-11-71).

WARREN F. BRECHT,
Deputy Assistant Secretary of the Interior.

SEPTEMBER 3, 1971.

PART 14-1—GENERAL

1. Paragraph (b) of § 14-1.000 is revised to read as follows:

§ 14-1.000 Scope of part.

* * * * *

(b) It is the basic policy of the Department to apply Federal Procurement Regulations. Thus, as to most elements of the procurement process, substantive guidelines will be found by reference thereto. FPR is published as Chapter 1 of Title 41. IPR will be published as Chapter 14 of the same title.

Subpart 14-1.0—Regulation System

2. Section 14-1.006-1 is revised to read as follows:

§ 14-1.006 Issuance.

§ 14-1.006-1 Code arrangement.

IPR are issued in the Code of Federal Regulations as chapter 14 of title 41, Public Contracts and Property Management. Regulations which may be issued by the bureaus and offices of Interior will be identified by alphabetical designations immediately following the Department Code(14), as illustrated below:

14A—Office of the Secretary.
14B—Office of Management Operations.
14C—Reserved.
14D—Bureau of Sport Fisheries and Wildlife.
14E—Bureau of Mines.
14F—Geological Survey.
14G—Office of Coal Research.
14H—Bureau of Indian Affairs.
14J—Bureau of Land Management.
14K—National Park Service.
14L—Reserved.
14M—Alaska Power Administration.
14N—Bureau of Outdoor Recreation.
14P—Reserved.
14R—Office of Saline Water.
14S—Bureau of Reclamation.
14T—Bonneville Power Administration.
14U—Southeastern Power Administration.
14W—Southwestern Power Administration.
14Z—Defense Electric Power Administration.

Subpart 14-1.2—Definition of Terms

§ 14-1.204 [Deleted]

3. Subpart 14-1.2 is hereby amended by the deletion of § 14-1.204.

Subpart 14-1.7—Small Business Concerns

4. Section 14-1.706-1 is amended by addition of the following:

§ 14-1.706-1 General.

* * * In addition, preferences for small business set-asides for construction (including repair, maintenance and alteration) in excess of $500,000 shall be considered on a case-by-case basis.

5. Section 14-1.708-2 is revised to read as follows:

§ 14-1.708-2 Applicability and procedure.

The contracting officer's determination (prepared in accordance with § 1-1.708-2(a) (5) of this title) that a small business concern is not responsible for reasons other than deficiencies in capacity or credit, together with all supporting evidence upon which the determination is based, shall be approved by the head of the bureau or office concerned, or his designee.

6. Subpart 14-1.7 is amended by the addition of §14-1.710-4.

§ 14-1.710-4 Review of subcontracting program.

(a) It shall be the responsibility of contracting officers to determine when periodic reviews of contractors and subcontractors are necessary to determine the adequacy of their "small business subcontracting programs." The contracting officer may at his discretion appoint or request any appropriate official or organization to make the review for him. The contracting officer should, as he deems appropriate, make arrangements for participation by representatives of the Small Business Administration in the review.

(b) Before making a review the contracting officer shall ask the contractor whether or not a periodic review of his small business subcontracting program has been made within the preceding 12 months by another Government procuring agency. If the contractor has been reviewed he should be asked to furnish the name and address of the reviewing agency. If it is verified that a review has been made within the preceding 12 months, that review will satisfy the requirements of § 1-1.710-4 of this title.

PART 14-2—PROCUREMENT BY FORMAL ADVERTISING

Subpart 14-2.1—Use of Formal Advertising

1. The above appearing title of Subpart 14-2.1 is substituted for the heading "Types of Contracts."

Subpart 14-2.2—Solicitation of Bids

§ 14-2.207 [Amended]

2. The title "Amendments of invitations for bids" is substituted for the heading "Miscellaneous rules for solicitation of bids" in § 14-2.207.

PART 14-3—CIRCUMSTANCES PERMITTING NEGOTIATION

Subpart 14-3.1—Use of Negotiation

3. The above appearing subpart heading is inserted immediately preceding § 14-3.103 *Dissemination of procurement information.*

Subpart 14-3.2—Circumstances Permitting Negotiation

4. The above appearing "Subpart 14-3.2—Circumstances Permitting Negotiation" is substituted for § 14-3.2 *Circumstances permitting negotiation.*

Subpart 14-3.3—Determinations, Findings, and Authorities

5. The above appearing "Subpart 14-3.3—Determinations, Findings, and Authorities" is substituted for § 14-3.3 *Determinations, findings, and authorities.*

6. Section 14-3.303 is revised to read as follows:

§ 14-3.303 Determinations and findings by the head of the agency.

The heads of bureaus and offices shall make the determinations and findings required by § 1-3.211 of this title and § 14-3.211 when the contract will not require the expenditure of more than $25,000.

Subpart 14-3.4—Types of Contracts

7. The above appearing "Subpart 14-3.4—Types of contracts" is substituted for § 14-3.4 *Types of contracts.*

Subpart 14-3.6—Small Purchases

8. The above appearing "Subpart 14-3.6—Small Purchases" is substituted for § 14-3.6 *Small purchases.*

Subpart 14-3.8—Price Negotiation Policies and Techniques

9. The above appearing "Subpart 14-3.8—Price Negotiation Policies and

Techniques" is substituted for § 14–3.8 *Price negotiation policies and techniques.*

PART 14–7—CONTRACT CLAUSES

Subpart 14–7.1—Fixed-Price Supply Contracts

1. Section 14–7.153 is revised to read as follows:

§ 14–7.153 Ocean freight shipments—use of American-flag vessels—reports.

(a) It is the policy of Interior to encourage and foster the American Merchant Marine. Pursuant to the provisions of section 901(b) of the Merchant Marine Act of 1936 (46 U.S.C. 1241) invitations for bids and requests for proposals shall in appropriate cases contain the following provision:

U.S.-FLAG VESSEL PROVISION

The Contractor agrees to ship on privately owned U.S.-flag commercial vessels at least 50 per centum of the gross tonnage of any equipment, materials, or commodities (computed separately for dry bulk carriers, dry cargo liners, and tankers) which may be transported on ocean vessels. Pursuant to section 901(b) of the Merchant Marine Act, 1936, as amended (46 U.S.C. sec. 1241(b)), the Secretary or his duly authorized representative may permit shipment in a manner other than that required by this provision upon the basis of evidence furnished by the Contractor that U.S.-flag commercial vessels are not available at fair and reasonable rates for U.S.-flag commercial vessels. The Contractor will be required to certify compliance with this requirement prior to final payment. For purposes of this section, the term "privately owned U.S.-flag commercial vessels" shall not be deemed to include any vessel which, subsequent to September 21, 1961, shall have been either (a) built outside the United States, (b) rebuilt outside the United States, or (c) documented under any foreign registry, until such vessel shall have been documented under the laws of the United States for a period of 3 years.

(b) Each affected bureau and office shall submit, to the Chief, Office of Market Development, Cargo Preference Control Center, Maritime Administration, U.S. Department of Commerce, a report as follows:

Within 20 working days of the date of loading for each shipment originating in the United States, or within 30 working days for each shipment originating outside the United States, a report consisting, where obtainable, of a properly notated and legible copy in English of the ocean bill of lading. If a copy of the bill of lading is unobtainable or not in English, the report shall be made in the format following:

U.S. DEPARTMENT OF THE INTERIOR

Bureau or Office ---------- Date ---------

Cargo Preference Shipment Report

Vessel name----------
Vessel flag----------
Date of loading----------
Port of loading----------
Port of final discharge----------
Commodity description----------
Gross weight in pounds----------
Total ocean freight revenue in U.S. dollars---

Subpart 14–7.6—Fixed-Price Construction Contracts

2. A new section heading is added preceding § 14–7.602–50(6)(a). The effect of this is only to change the heading and arrangement of subheads. No changes have been made in the text or required clauses. The new section heading reads as follows:

§ 14–7.602–50(6) Local taxes.

PART 14–30—CONTRACT FINANCING

Subpart 14–30.2—Basic Policies

§ 14–30.250 [Redesignated]

1. The numbering of § 14–30.50 *Contract debts—compromise, suspension, or termination* has been changed to § 14–30.250 with the same title.

[FR Doc.71–13369 Filed 9–10–71;8:46 am]

Title 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health, Education, and Welfare

SUBCHAPTER D—GRANTS

PART 59a—NATIONAL LIBRARY OF MEDICINE GRANTS

Grants for Improving and Expanding Basic Resources

On January 30, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 1484–1485) proposing to amend Subpart B of Part 59a of the Public Health Service regulations governing the award of grants for improving and expanding basic resources of medical libraries and related instrumentalities under section 396 (formerly section 397) of the Public Health Service Act in order to implement amendments to such section made by the Medical Library Assistance Extension Act of 1970, Public Law 91–212. The proposed amendments were prepared with the advice and assistance of the Board of Regents of the National Library of Medicine.

In addition, it was proposed to amend such regulations to reflect Reorganization Plan No. 3 of 1966 and Reorganization Orders of the Secretary of Health, Education, and Welfare of March 13 and April 1, 1968 (33 F.R. 4894, 5426).

Views and arguments respecting the proposed amendments were invited to be submitted within 30 days of the publication of the notice in the FEDERAL REGISTER. No comments were received within the 30-day period allowed and the proposed amendments are hereby adopted without change, except for minor technical changes in the authority provision. The amendments shall become effective 30 days after publication in the FEDERAL REGISTER.

1. The title of Subpart B of Part 59a is amended to read as follows:

Subpart B—Grants for Establishing, Expanding, and Improving Basic Resources.

2. The issuing authority for Subpart B of Part 59a, appearing immediately after the title, is revised to read as follows:

AUTHORITY: The provisions of this Subpart B issued under secs. 392, 396, 79 Stat. 1066, 1063, as amended; 42 U.S.C. 280b–2 280b–7. Reorg. Plan No. 3 of 1966; 3 CFR 1966 Comp.; Reorg. Ords. and Delegations of Mar. 13 and Apr. 1, 1968 (33 F.R. 4894, 5426). § 59a.15(c) also issued under sec. 398, 79 Stat. 1066, as amended; 42 U.S.C. 280b–9.

3. All references in Subpart B of Part 59a to "Surgeon General" and "Surgeon General's" are deleted and the term "Secretary" or "Secretary's" are substituted in lieu thereof, respectively.

4. Section 59a.11 is amended to read as follows:

§ 59a.11 Applicability.

The provisions of this subpart apply to grants for establishing, expanding, and improving basic resources as authorized by section 396 of the Public Health Service Act.

5. Section 59a.12 is amended by deleting paragraphs (c), (e), and (f) and substituting in lieu of paragraph (c) the following new paragraph:

§ 59a.12 Definitions.

* * * * *

(c) "Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

* * * * *

(e) [Deleted]
(f) [Deleted]

6. Section 59a.15 is revised to read as follows:

§ 59a.15 Grant Awards.

(a) *General.* Within the limits provided by law and to the extent of funds available, the Secretary shall award grants to those applicants whose proposals for establishment, expansion, or improvement will in his judgment best promote the purposes of section 396 of the Act.

(b) *Determination of award amount.* The amount of any award, not to exceed $200,000, shall be determined by the Secretary:

(1) On the basis of the scope of medical library or related services provided by the applicant in relation to the population and purposes served by it, taking into account the following factors:

(i) The number of graduate and undergraduate students, and physicians and other practitioners in the sciences related to health making use of the applicant's library resources;

(ii) The type of supportive staffs, if any, available to the applicant's library;

(iii) The type, size, and qualifications of the faculty of any school with which the applicant is affiliated;

(iv) The staff of any hospitals or clinics with which the applicant's library is affiliated;

(v) The geographic area served by such applicant and the availability, within such area, of medical library or related services provided by other libraries or related instrumentalities; and

(2) Shall be in such amount as in the Secretary's judgment will assure adequate continuing financial support of the applicant's proposed activity from other sources during and after the period of award. In making such determination, the Secretary shall take into consideration the level of non-Federal support for the proposed activity for periods prior to the fiscal year in which a grant is made and shall require assurance from the applicant that such support will not be diminished as a result of such award and that adequate support for such activity will be continued during and after the period of Federal assistance: *Provided*, That subject to such exceptions as the Secretary may determine to be necessary for the orderly administration of the grant program hereunder, no grant shall be made for less than $1,000.

(c) *Payments.* The Secretary shall from time to time make payments or provide materials, to a grantee of all or a portion of any grant award. Payments may be made either in advance or by way of reimbursement for expenses incurred, or to be incurred, for the grant purposes and in such amounts or installments as best to promote prompt establishment, expansion and/or improvement of the medical library or related instrumentality. This provision relating to grant payments shall also be applicable to awards pursuant to section 398 of the act.

7. Section 59a.16(a) is revised to read as follows:

§ 59a.16 Termination.

(a) *Termination by the Secretary.* Any grant award may be revoked or terminated by the Secretary in whole or in part at any time when, in his judgment, the grantee has failed in a material respect to comply with the act or the regulations of this subpart. The grantee shall be promptly notified in writing of any such determination and given the reasons therefor. Within 10 days after receipt of such notice, or such longer period as the Secretary may allow, the grantee may request a reconsideration of such termination and shall be afforded an opportunity to present, orally or in writing, such information or argument as may be pertinent.

* * * * *

§ 59a.21 [Amended]

8. Section 59a.21 is amended by deleting after the word "Secretary" in the second sentence, the words "of Health, Education, and Welfare".

Dated: August 17, 1971.

JOHN F. SHERMAN,
Acting Director,
National Institutes of Health.

Approved: September 7, 1971.

ELLIOT L. RICHARDSON,
Secretary.

[FR Doc.71-13399 Filed 9-10-71;8:53 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

PART 2—FREQUENCY ALLOCATION AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

Table of Frequency Allocations

Order. In the matter of amendment of the Table of Frequency Allocations in Part 2 of the Commission's rules and regulations to revise footnote US23 and add new footnote US116.

1. The commission, in cooperation with the Office of Telecommunications Policy (OTP), is hereby amending Part 2 of its Rules to reflect certain conditions of Government access to the bands 76–88 MHz, 88–100 MHz, 890–902 MHz, and 928–942 MHz.

2. The OTP, in evaluating Government frequency requirements, has determined that Government use of the bands 76–88 MHz and 88–100 MHz in Alaska is mainly of a fixed service nature. Therefore, footnote US23 in § 2.106 of the Commission's rules is being amended to reflect this change.

3. The OTP has also recommended the addition of footnote US116 to the Table of Frequency Allocations, which would be applied to the bands 890–902 MHz and 928–942 MHz. This footnote excludes future Government assignments, except for special cases stated in the footnote, and restricts the operation of Government assignments presently in the bands. This footnote is required as a result of the allocation proceedings in Docket No. 18262 (see First Report and Order and Second Notice of Inquiry, 35 F.R. 8644, June 4, 1970).

4. Authority for the amendments is contained in sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended. Because the amendments affect only Government assignments, prior notice and effective date provisions of section 4 of the Administrative Procedure Act, 5 U.S.C. 553, do not apply.

5. *Accordingly, it is ordered,* That effective September 16, 1971, Part 2 of the Commission's rules is amended as set forth below.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303)

Adopted: September 1, 1971.

Released: September 3, 1971.

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

Part 2 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

In § 2.106, footnote designator US116 is added in column 5 for the frequency bands 881–902 MHz and 928–947 MHz, footnote US23 is revised, and US116 added to read as follows:

[1] Commissioner Johnson absent.

US23 In Alaska, the frequency bands 76–88 MHz and 88–100 MHz are allocated to the Government and non-Government fixed services.

* * * * *

US116 In the bands 890–902 MHz and 928–942 MHz, no new assignments are to be made to Government radio stations after July 10, 1970, except, on a case-by-case basis, to experimental stations and to additional stations of existing networks in Alaska. Government assignments, existing prior to July 10, 1970, to stations in Alaska and to stations in support of the doppler velocity attitude projectile (DOVAP) system may be continued. All other existing Government assignments shall be on a secondary basis to stations in the non-Government land mobile service and shall be subject to adjustment or removal from the bands 890–902 MHz and 928–942 MHz at the request of the FCC.

[FR Doc.71-13393 Filed 9-10-71;8:53 am]

[Docket No. 18908]

PART 63—EXTENSION OF LINES AND DISCONTINUANCE OF SERVICE BY CARRIERS

Domestic Telegraph Service; Office Conversion Program of Western Union Telegraph Co.

Order. In the matter of domestic telegraph service inquiry into the office conversion program of the Western Union Telegraph Co.

1. The Chief, Common Carrier Bureau, acting pursuant to his delegated authority has under consideration a formal request of the Western Union Telegraph Co., dated August 2, 1971, for an extension of time from September 1, 1971, to January 1, 1972 within which to comply with certain orders of the Commission in the above captioned proceeding (36 F.R. 4266). Opposing comments of the United Telegraph Workers, AFL–CIO, have been filed seeking denial of any extension whatsoever. In response to the UTW objections, Western Union has provided additional considerations bearing on the request for postponement and at the same time substituted December 1, 1971 as the suggested date for compliance. In response to that further request, the UTW has reiterated its opposition to the grant of any postponement. For the reasons stated below, the request for an extension until December 1, 1971 is granted.

2. In the "Report and Order" released March 3, 1971, 27 FCC 2d 787, the Commission concluded that the plans of Western Union to close hundreds of class I offices generally in medium or small sized cities and to substitute therefor local telegraph agencies would serve the public interest. In so concluding, however, it established certain new criteria which were to be followed in the conversion of such offices. One such criterion was the requirement that telegraph agents be required to sign contracts containing specified provisions. All existing agents' contracts were to be conformed to the new requirements by September 1, 1971 and the Commission was to be notified no later than that date whether such revisions had been made. See 27 FCC 2d at 819–820; 47 U.S.C. section 63.91(a). Another condition to the approval of the conversion program was that the

company undertake a study of the speed of service through its class 9–C and 11–B agencies and to report the results of such a study to the Commission prior to September 1, 1971. See 27 FCC 2d at 829–830.

3. Western Union seeks to delay implementation of these two requirements until December 1, 1971, in view of the intervening strike action of the two labor unions representing Western Union's labor force, United Telegraph Workers and the Communications Workers of America. Both unions went out on strike May 31, 1971, and the UTW returned to work July 28, 1971; the CWA, whose members are almost exclusively located in the New York area, has not yet reached a settlement with the company. Alleging that the company "was diligently pursuing full compliance" with the requirements set out above, Western Union contends that the strike action forced the suspension of normal management functions for the duration of the strike and will lead to continued difficulties for sometime thereafter. In view of these difficulties and the continuation of the strike in the New York metropolitan area, Western Union seeks the delay recited above.

4. The *"Report and Order"* in Docket No. 18908 contemplated a period of 6 months in which to permit Western Union to come into compliance with the requirements at issue. However, a complete work stoppage of 2 months' duration everywhere except in the New York City area, where the stoppage is still in effect, has apparently had a severe impact on the conduct of administrative affairs; some agents were lost to the company during the strike and had to be replaced, a time-consuming process. Other disruptions recited by the company have made it unrealistic to hold Western Union to the original schedule. While the UTW vigorously opposes the request, it presents no facts which substantially weaken the company's argument in support of the requested delay. In view of all the circumstances, an extension of 3 months is warranted, and is hereby granted. Further requests for extensions will be granted only upon a persuasive showing that the inability to meet the new deadline arises from causes of a fundamental nature and which are beyond the company's ability to control or overcome.

5. *Accordingly, it is ordered,* That pursuant to § 0.303(f) of the rules, 47 CFR § 0.303(f) the request for extension of time to comply with the orders specified above from September 1, 1971 to December 1, 1971 is granted.

Adopted: August 31, 1971.

Released: September 2, 1971.

[SEAL] BERNARD STRASSBURG,
Chief, Common Carrier Bureau.

[FR Doc.71-13396 Filed 9-10-71;8:48 am]

[Docket No. 19263; RM-1684]

PART 73—RADIO BROADCAST SERVICES

Table of Assignments; Certain Stations in Mississippi

Report and order. 1. The Commission has before it the notice of proposed rule making in this proceeding adopted June 16, 1971, to amend the Table of Television Assignments (§ 73.606(b) of the rules) regarding educational television assignments in the State of Mississippi (FCC 71–640; 36 F.R. 12043). Issuance of the notice followed the submission of a petition for rule making by the Mississippi Authority for Educational Television (MAET). In addition to MAET's comments and reply comments in support of various changes and additions in the educational assignments in the State, comments were also filed by the Lawyer's Committee for Civil Rights Under Law (Committee) on behalf of Mrs. Paul S. Derian and Mr. Alex Waites, both of Jackson, Miss.

2. Originally, MAET had included in its submission requests for both a VHF assignment and a substitute UHF assignment to Booneville. Subsequently, after the proposed VHF assignment presented problems, MAET amended its petition so as to delete any proposal for a substitute ETV channel at Booneville. Simultaneously, it filed a new petition (RM–1746), seeking Channel *12 for Booneville. The latter will be considered separately and acted on in the near future. Meanwhile, as discussed below, we are assigning Channel *20 to Booneville as originally requested by MAET and proposed in the notice herein.

3. The only other comments in this proceeding were filed by the Committee, and these comments were directed to questions and reservations it has regarding MAET's bona fides in the area of fair and equitable treatment of white and black Mississippians and the ways in which the stations MAET proposes to establish would be used in responding to the needs of Mississippi's citizenry. Where it to be satisfied on these counts, the Committee stood ready to endorse the plans of MAET.

4. While the points raised by the Committee are matters of significance, they are not properly directed to a proposal to revise educational television assignments. Rather, questions such as these should be raised in connection with specific applications filed by MAET. It is in connection with licensing, not rule making, that such points are properly raised, for the rule making grants no authority to MAET. The merits of the Committee's objections can be considered when MAET files applications seeking such authority to construct and operate. In addition, we note that MAET has addressed itself to these matters in its reply comments and has endeavored to provide the assurances sought by the Committee. For the reasons mentioned we need not decide the need for or the adequacy of these assurances.[1]

5. As to the need for the changes proposed, MAET submitted considerable information on the uses to which it would put these channels in effectuating a statewide educational television plan. Considerable funding has been provided by the State legislature and MAET is eager to proceed promptly to apply for and establish operations on these channels. MAET's plans as detailed in its various submissions, are wide ranging and extensive, dealing with a multiplicity of educational, social and cultural needs in the State of Mississippi. As described by MAET, Mississippi's needs are substantial and its economic resources limited. Through use of this medium, MAET hopes to be able to make advances in education in the State in ways which would be difficult to provide through conventional public education methods.

6. MAET's proposed State network would provide complete State coverage, and channels are available for this without impinging on the needs of neighboring States. Thus, we find that the need for channels to accomplish these purposes has been documented and that such assignments would be consistent with the provision of section 307(b) of the Act. The only remaining question relates to assignment of the particular channels requested. As we indicated in the notice, computer studies indicated that several changes in the proposed assignments might be more efficient in terms of changes in terms of future preclusions. MAET responded that it saw greater virtue in adoption of the plan as it proposed, and stated that our proposal to use Channel *22 in lieu of Channel *18 in Oxford as MAET proposed, would produce no public benefit. Rather, MAET contended, it would have to divert considerable funds to overcome the difficulties in receiving the relay signal of the Greenwood station on Channel *23 [2] because of the strong field from its own operation on Channel *22.

7. After consideration of the matter we have concluded that adoption of the changes proposed by MAET would best serve the public interest. Although computer studies had indicated that the group of channels proposed by the Commission might be more efficient than those proposed by MAET, this matter assumes a lesser significance in an area like Mississippi where saturation is at a rather low level. In addition, while we do

[1] Just as with any other applicant, MAET would be expected to comply with the Commission's Equal Employment Opportunity program requiring "positive recruitment, training, job design and other measures needed to insure genuine equality of opportunity to participate fully in all organizational units, occupations and levels of responsibility in the station."

[2] This channel, already in the table, is not involved in this proceeding.

not ordinarily consider the needs of an off-the-air relay system in determining which channel to assign, this situation is different in two respects. First, unlike commercial broadcasters, MAET would never be able to recoup the high costs of the equipment necessary to receive the relay signal. Even more importantly, Mississippi's educational needs, and its limited tax resources to meet them, mean that needed funds would be diverted to noneducational expenditures. Even in a case like this, it may become necessary to specify a channel which would require such expenditures if the difference in the efficiency of the channels is great and the level of saturation is high. Our information does not indicate that either condition prevails. Accordingly, we will adopt the proposal generally as requested by MAET.

8. However, we are departing from the MAET request in one request, and are adopting the proposed assignment to Channel *20 at Booneville, even though petitioner apparently does not desire it at this time, preferring to wait for a possible VHF assignment there as it has requested in RM-1746. As indicated above, such an assignment may present some problems, and we do not believe it desirable to make the prompt rendition of educational service contingent on their successful resolution, especially since it may take some time. The UHF assignment may be made consistent with MAET's other requests, and accordingly is adopted herein.

9. Authority for the adoption of the amendments proposed herein is contained in sections 4(i), 303(r), and 307 (b) of the Communications Act of 1934, as amended.

10. In accordance with the foregoing, *It is ordered*, That effective October 14, 1971, the Television Table of Assignments (§ 73.606(b) of the rules) is amended to read as follows:

City (all in Mississippi):	*Channel No.*
Booneville	*20
Clarksdale	*22
Columbia	*45
Columbus	4—, 27, *43
Hattiesburg	22, *47
Natchez	*42
Oxford	*18
Senatobia	*34

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

Adopted: September 1, 1971.

Released: September 3, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE, *Secretary.*

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

[FR Doc.71-13394 Filed 9-10-71;8:53 am]

[1] Commissioner Johnson absent.

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

SUBCHAPTER B—PRACTICE AND PROCEDURE

[Ex Parte No. MC-82]

PART 1104—PROCEDURES TO BE FOLLOWED IN MOTOR CARRIER REVENUE PROCEEDINGS

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 30th day of August 1971.

Upon consideration of the record in this proceeding, including the report of the Commission, 339 I.C.C. 324, decided April 7, 1971, prescribing procedures in appendix II thereof which were published as a new Part 1104, "Procedures to be Followed in Motor Carrier Revenue Proceedings," of Chapter X of Title 49 of the Code of Federal Regulations; of petitions for reconsideration filed jointly by Central and Southern Motor Freight Tariff Association, Inc., The Eastern Central Motor Carriers Association, Inc., Middlewest Motor Freight Bureau, The New England Motor Rate Bureau, Inc., Pacific Inland Tariff Bureau, Inc., Southern Motor Carriers Rate Conference, and Southwestern Motor Freight Bureau, Inc., on behalf of their common carrier members, and individually by Central States Motor Freight Bureau, Inc., Middle Atlantic Conference, and Rocky Mountain Motor Tariff Bureau, Inc., on behalf of their common carrier members; and replies thereto filed jointly by The Drug and Toilet Preparation Traffic Conference and the National Small Shipments Traffic Conference, and by the General Services Administration, Motor Carrier Traffic Association, and National Industrial Traffic League; and good cause appearing therefor:

It is ordered, That the said petitions for reconsideration be, and they are hereby, granted.

It is further ordered, That the procedures previously prescribed in appendix II of the above-cited report be, and they are hereby, modified to read as set forth in appendix III to the report of the Commission on reconsideration, ____ I.C.C. ____, decided on this date.

It is further ordered, That the prescribed procedures, as modified, shall be published in the FEDERAL REGISTER and in the Code of Federal Regulations.

It is further ordered, That the modified prescribed procedures shall take effect 30 days after the date of publication in the FEDERAL REGISTER.

And it is further ordered, That this order shall continue in full force and effect until the further order of the Commission.

By the Commission.

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

Sec.
1104.1 Application.
1104.2 Traffic study.
1104.3 Cost study.
1104.4 Revenue need.
1104.5 Affiliate data.
1104.6 Official notice.
1104.7 Service.
1104.8 Availability of underlying data.

AUTHORITY: The provision of this Part 1104 issued under 49 U.S.C. 305(h), 316g, 3161; 5 U.S.C. 553v.

§ 1104.1 Application.

(a) Upon the filing by the tariff publishing agencies named hereinafter on behalf of their motor common carrier members, or by such other agencies as the Commission may by order otherwise designate, of agency tariff schedules which contain: (1) Proposed general increases in rates or charges on general freight where such proposal would result in an increase of $1 million or more in the annual operating revenues on the traffic affected by the proposal; or (2) a proposed general adjustment with the objective of restructuring the rates on a wide range of traffic, involving both increases and reductions in rates and charges, where such proposal would result in a net increase of $1 million or more in annual operating revenues, the motor common carriers of general freight on whose behalf such schedules are filed shall, concurrently with the filing of those tariff schedules, file and serve, as provided hereinafter, a verified statement presenting and comprising the entire evidential case which is relied upon to support the proposed general increase or rate restructuring. Carriers thus required to submit their evidence when they file their schedules are hereby notified that special permission to file those schedules shall be conditioned upon the publishing of an effective date at least 45 days later than the date of filing, to enable proper evaluation of the evidence presented. Data to be submitted in accordance with §§ 1104.2–1104.5 represent the minimum data required to be filed and served, and in no way shall be considered as limiting the type of evidence that may be presented at the time of filing of the schedules. If a formal proceeding is instituted, the carriers are not precluded from updating the evidence submitted at the time of filing of the schedules to reflect the contemporary situation.

(b) The motor common carriers of general freight which are subject to the provisions of this section are those which are members of the following tariff publishing agencies:

Central and Southern Motor Freight Tariff Association, Inc.
Central States Motor Freight Bureau, Inc.
The Eastern Central Motor Carriers Association, Inc.
Middle Atlantic Conference.
Middlewest Motor Freight Bureau.
The New England Motor Rate Bureau, Inc.
Pacific Inland Tariff Bureau, Inc.
Rocky Mountain Motor Tariff Bureau, Inc.

Southern Motor Carriers Rate Conference.
Southwestern Motor Freight Bureau, Inc.

(c) Upon the filing of tariff schedules other than those described hereinabove, the carriers or their tariff publishing agencies shall be required to comply with such procedures as the Commission may direct in the event an investigation is instituted. In any proceeding involving a proposed rate restructuring which would produce additional net revenue of less than $1 million the carriers will be required to submit only the data sought in §§ 1104.2 and 1104.3. Nothing stated in this part shall relieve the carriers of their burden of proof imposed under the Interstate Commerce Act.

§ 1104.2 Traffic study.

(a) The respondents shall submit a traffic study for the most current 12-month calendar year available, which shall be referred to as the "base calendar year—actual." This year shall be the calendar year that has ended at least 7 months prior to the published effective date of the tariff schedules. If the effective date is less than 7 months following the end of the preceding calendar year, then the second preceding calendar year shall be considered as the "base calendar year—actual." The study shall include a probability sampling of the actual traffic handled during identical time periods for each study carrier.

(b) The study carriers shall consist of those carriers subject to the requirements for allocation of expenses between line-haul and pickup and delivery services, as provided in Part 1207 of this chapter. Instructions 27 and 9002, which participate in one of the motor carrier industry's Continuous Traffic Studies, and which derive either $1 million or more in annual operating revenues from this issue traffic or 1 percent or more of the total annual operating revenues of all carriers from the issue traffic. A list of such carriers and the appropriate revenue data shall be submitted to corroborate the selection of the study carriers. "Issue traffic" consists of those shipments on which the freight rates or charges would be affected by the rate proposal.

(c) Respondents shall take a sample of the traffic handled by the study carriers according to acceptable standards of probability sampling principles and practices, and shall explain and evaluate the probability sample from the standpoint of: Purpose, sample design (including explanation of estimation procedure and disclosure of sampling errors for derived characteristics), quality control aspects involved in processing and tabulating data and any statistical analysis performed on the sampled data.[1]

(d) For cost and revenue purposes, the "carried" traffic basis shall be used. "Carried" traffic means the issue traffic handled solely by the study carriers, either single-line or interline. Estimates of current revenues applicable to the issue traffic should reflect all rates and charges in effect no later than 45 days prior to the date of the tariff filing.

§ 1104.3 Cost study.

(a) The respondents shall submit a cost study. Highway Form B may be used for this purpose. Service unit-costs shall be developed for each individual study carrier, adjusted by size of shipment and length of haul, and shall be applied to respective individual carrier's traffic service units as developed from its traffic study. Operating ratios shall be determined for the issue traffic handled by the study carriers on the "carried" basis by individual weight brackets included within the rate proposal, for: (1) The traffic study year, that is, the "base calendar year—actual," as hereinbefore defined; (2) a "present proforma year" reflecting conditions prevailing on a date no later than 45 days prior to the date of the tariff filing; and (3) a "restated proforma year" based on conditions anticipated on the effective date of the proposed rates, with a separation indicating projected operating ratios on two bases, namely, "based on current revenues," and "based on proposed revenues." Operating ratios shall also be shown for all other traffic not affected by the rate proposal for the same weight brackets as shown for the issue traffic, but only for the period indicated in subparagraph (1) of this paragraph.

(b) In addition to the operating ratios, the cost study shall also be used to develop and provide the revenue-to-cost comparisons required in appendix A for the same time periods indicated for the operating ratios plus a "restated proforma year" based on constructed revenue need.

(c) For both the operating ratios and the revenue-to-cost comparisons in appendix A the "each-to-each" costing method, i.e., the application of each individual study carrier's unit-cost to its traffic service units, applies only to the "base calendar year—actual." The application of possible labor and nonlabor cost increases for the purpose of updating the "base calendar year—actual" cost data may be accomplished by the use of either individual carrier data for each of the study carriers, or the composite carrier data for those study carriers whose revenues from the issue traffic amount to 50 percent or more of their total system revenues for the "base calendar year—actual." The sample values for expenses and revenues shall be expanded to full year values without adjustments to known annual report figures of any carrier.

(d) Where cost studies are developed through the use of computer processing techniques, there shall be submitted a manual application of the costing procedures used for one traffic and cost study carrier (study carrier) in order to demonstrate the procedures by which the computer program distributes the annual report statistics, and applies service unit-costs to each shipment. An illustration of the application of service unit-costs to the applicable traffic service units generated by one single-line sample shipment and by one interline sample shipment shall also be submitted. These sample shipments shall be on the "carried" basis.

§ 1104.4 Revenue need.

Traffic and cost study carriers, i.e., the study carriers, shall submit evidence of the sum of money, in addition to operating expenses, including that needed to attract debt and equity capital, which they require to insure financial stability and the capacity to render service. This evidence shall include data required by appendix A, parts I and II, and appendix B.

§ 1104.5 Affiliate data.

Each individual traffic and cost study carrier having transactions with affiliates, subject to the reporting requirements of schedules 9009–A and 9009–B in the annual report for class I motor carriers, shall submit appropriate data and analyses reflecting the effect on the parent carrier's profits of transactions with affiliates. Such data and analyses shall be adequately supported, and there shall be submitted such underlying data as will permit a reconciliation of these data to the data supplied in the appropriate schedules of each carrier's annual report.

§ 1104.6 Official notice.

The Commission will take official notice of all of the proponent carriers' annual and quarterly reports on file with the Commission.

§ 1104.7 Service.

The detailed information called for herein shall be in writing and shall be verified by a person or persons having knowledge thereof. The original and 16 copies of each verified statement for the use of the Commission shall be filed with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423. One copy of each statement shall be sent by first-class mail to each of the regional offices of the Commission in the area affected by the proposed increase, where it will be open to public inspection. A copy of each statement shall be mailed by first-class mail to each party of record in the last formal proceeding concerning a general rate increase in the affected area or territory. Otherwise, the service requirements of rule 22 of the Commission's general rules of practice should be observed. Information with respect to carrier affiliates may be served on the parties in summary form, if so desired. A copy of each statement shall be furnished to any interested person on request.

§ 1104.8 Availability of underlying data.

All underlying data used in preparation of the material outlined above shall be made available in the office of the party serving such verified matter during usual office hours for inspection by any party of record desiring to do so, and shall be made available to the Commission upon request therefor. The underlying data shall be made available also at the hearing, but only if and to the extent specifically requested in writing and required by any party for the purpose of cross-examination. Since appendix A

[1] Although not adopted by the Commission, attention is called to a staff report, "Guidelines for the Presentation of the Results of Sample Studies," Feb. 1, 1971, available from the Superintendent of Documents.

data are to be submitted on a combined carrier basis, any underlying individual carrier data used to complete appendix A should be furnished to the Commission for its use as well as for the use of parties opposing the sought increases.

Cost allocation—See Part II Line 13
☐ Method A,
☐ Method B
Check one; provide both

APPENDIX A—REVENUE NEED AND ALLOCATION TO TRAFFIC AT ISSUE

Line No.	Item	Source [1]	Base calendar year—actual [2]	Present proforma year [3]	Restated proforma year [4] Based on current revenues	Based on proposed revenues	Based on constructed revenue need [5]
	(1)	(2)	(3)	(4)	(5)	(6)	(7)
	Part I. Revenue Need						
1	Operating revenue	A.R. Sch. 2998, L.3	$	$	$	$	$
2	Operating expenses	A.R. Sch. 2998, L.10					
3	Lease of distinct operating unit (net)	A.R. Sch. 2998, Net of Ls. 12 and 13					
4	Miscellaneous deductions less other income	A.R. Sch. 2998, (L.27 minus L.20)					
5	Interest included in miscellaneous deductions	A.R. Sch. 2998, L.23					
6	Income taxes on ordinary income [6]	A.R. Sch. 2998, L.20					
7	Extraordinary and prior period items	A.R. Sch. 2998, L.34					
8	Net income or loss [7]	A.R. Sch. 2998, L.35					
9	Sum of money above operating expenses	Sum of Ls.4, 6 and 8					
10	Percent owned and leased property to net tangible property (3 decimals)	A.R. Sch. 100, col. (c) (L.21+L.23) ÷L.26	%	%	%	%	%
11	Sum of money related to transportation	(L.9×percent in L.10) plus L.3					
12	System revenue need items and projected revenue need	L.2 plus L.11					
	Part II. Allocation to Traffic at Issue						
13	Constant costs and sum of money allocated to issue traffic	See Method A ( ) and Method B ( ) Check one; provide both					
14	Variable expenses from traffic at issue (90 percent variable excluding return on investment) [8]	From traffic and cost study					
15	Operating revenues from traffic at issue [8]	From traffic study					
16	Constant costs and sum of money allocated to issue traffic plus variable expenses	L.13 plus L.14	$	$	$	$	$
17	Revenue to cost comparison (1 decimal)	L.15÷L.16	%	%	%	%	%

See Methods A and B and footnotes on following pages.

METHOD A—CONSTANT COSTS AND SUM OF MONEY ALLOCATED TO ISSUE TRAFFIC BASED ON TON AND TON-MILE METHOD (SEE NOTE A.)

Line No.	Item	Source for columns 3 and 4	Base calendar year—actual	Present proforma year	Restated proforma year Based on current revenues	Based on proposed revenues	Based on constructed revenue need
	(1)	(2)	(3)	(4)	(5)	(6)	(7)
(a)	System constant costs	L.(b)+L.(c)	$	$	$	$	$
(b)	Not related to distance	(See Note B)					
(c)	Related to distance	(See Note B)	$	$	$	$	$
(d)	Percent not related to distance (3 decimals)	L.(b)÷L.(a)	%	%	%	%	%
(e)	Percent related to distance (3 decimals)	L.(c)÷L.(a)	%	%	%	%	%
(f)	System sum of money	Appendix A, part I, L.11	$	$	$	$	$
(g)	Not related to distance	L.(f)×L.(d)					
(h)	Related to distance	L.(f)×L.(e)					
(i)	Total system constant costs plus sum of money	L.(a)+L.(f)					
(j)	Not related to distance	L.(b)+L.(g)					
(k)	Related to distance	L.(c)+L.(h)	$	$	$	$	$
(l)	Tons carried on issue and nonissue traffic combined	From traffic study (see Note C)					
(m)	Ton-miles	do					
(n)	Issue traffic tons carried	do					
(o)	Issue traffic ton-miles	do					
(p)	Percent of issue traffic tons to system tons (3 decimals)	L.(n)÷L.(l)	%	%	%	%	%
(q)	Percent of issue traffic ton-miles to system ton-miles (3 decimals)	L.(o)÷L.(m)	%	%	%	%	%
	Constant costs and sum of money allocated to issue traffic:						
(r)	Not related to distance	L.(p)×L.(j)	$	$	$	$	$
(s)	Related to distance	L.(q)×L.(k)					
(t)	Total (enter amount in appendix A, part II, line 13)	L.(r)+L.(s)	$	$	$	$	$

NOTE A: This procedure allocates constant costs and the sum of money based on the ton and ton-mile method and should be submitted for the information of the Commission. How much of the constant and sum of money costs may or should be recovered by any specific segment of traffic rest on (1) considerations including value of service, demand, and ability to pay, and (2) considerations which involve matters relating to regulatory policy.

NOTE B: Separate the amount of constant costs, including unrelated, by using Statement No. 6-68, Highway Form B, Schedule A, Line 111. Assign the dollars in columns (6), (7), (8), and (9) times 10 percent to line (b), and the dollars in columns (4) and (5) times 10 percent to line (c).

NOTE C: Show tons and ton-miles on issue and nonissue traffic based on an expansion of the sample to a full year.

METHOD B—CONSTANT COSTS AND SUM OF MONEY ALLOCATED TO ISSUE TRAFFIC BASED ON DOLLAR (EXPENSE) METHOD (SEE NOTE A.)

Line No.	Item	Source for columns 3 and 4	Base calendar year—actual	Present proforma year	Restated proforma year		
					Based on current revenues	Based on proposed revenues	Based on constructed revenue need
	(1)	(2)	(3)	(4)	(5)	(6)	(7)
(a)	System constant costs (excluding	Note B	$	$	$	$	$
(b)	System sum of money	Appendix A, Part I, Line 11					
(c)	Total system constant costs plus sum of money	Line (a) plus line (b)					
(d)	Variable expenses on issue traffic	From traffic and cost study; Note C					
(e)	Variable expenses on issue and nonissue traffic combined	From traffic and cost study; Note D					
(f)	Percent relationship (3 decimals)	Line (d) ÷ line (e)	%	%	%	%	%
(g)	Constant costs and sum of money allocated to issue traffic (enter amount in appendix A, Part II, line 13).	Line (c) × line (f)	$	$	$	$	$

NOTE A: This procedure allocates constant costs and the sum of money based on the dollar (expense) method and should be submitted for the information of the Commission. How much of the constant and sum of money costs may or should be recovered by any specific segment of traffic rests on (1) considerations including value of service, demand, and ability to pay, and (2) considerations which involve matters relating to regulatory policy.

NOTE B: Determine the amount of constant costs, including unrelated, by using Statement No. 6-68, Highway Form B, Schedule A, line 111, column (3) multiplied by 10 percent; insert this amount on line (a).

NOTE C: Determine the amount of variable costs, including unrelated, by using Statement No. 6-68, Highway Form B, Schedule A, line 111, column (3) multiplied by 90 percent to obtain the variable portion.

NOTE D: Show variable expenses allocated to the issue traffic based on an expansion of a sample to a full year.

FOOTNOTES TO APPENDIX A

Explanatory. The purpose of appendix A is twofold, namely: (1) To obtain, through part I, Revenue Need, an indication of the past actual, present, and restated system revenue needs of the traffic and cost study carriers, which, along with the financial data required in appendix B, will facilitate an analysis of the financial stability of these carriers; and (2) to allocate a part of these system revenue needs to the traffic at issue as provided for in part II, line 13. It is that portion of constant and sum of money costs resulting from this allocation plus the related variable expenses (line 14) which produces the total costs assigned to the issue traffic (line 16) which is then compared to the issue traffic revenues in the revenue-to-cost comparison shown on line 17. This comparison provides some indication of how much the total issue traffic is contributing to the carriers' overall revenue needs; and serves as a reference point for the consideration of ratemaking factors, other than costs, which may influence the appropriateness of the issue traffic's contribution.

Appendix A data should be completed and submitted for all traffic and cost study carriers combined. However, data for the "base calendar year—actual," column (3), should be developed and completed for each traffic and cost study carrier and the results combined for all such carriers. The data in part I, columns (4) through (7), which reflect an updating of revenue need data for the "base calendar year—actual" to present and restated levels, should be developed on either an individual carrier basis, or on a composite carrier basis comprised of all traffic and cost study carriers. Data in part II, line 14, columns (4) through (7), which reflect an updating of the cost and traffic study data for the "base calendar year—actual" to present and restated levels, should be developed by the use of either individual carrier data for each of the study carriers, or the composite carrier data for those study carriers whose revenues from the issue traffic amount to 50 percent or more of their total system revenues for the "base calendar year—actual." However, for line 14, the method selected should be the same as that used to update the operating ratios to present and restated levels as required in .3 Cost study. As indicated above, appendix A data should be completed and submitted only for all traffic and cost study carriers combined. Since appendix A is to be submitted and a combined carrier basis, any underlying individual carrier data used to complete this appendix should be furnished to the Commission for its use as well as for the use of parties opposing the sought increases. Data in columns (4) through (7) must be appropriately explained and supported. Each of the dollar figures called for in these columns shall be accompanied by an explanation of the bases or methods of restatement, including explicit identification of all projected or assumed changes in revenues, in wage rates, in price levels of other expenses and property items, and in productivity, as compared with the preceding (actual) year results. Note that the time periods referred to in appendix A, that is, "Base calendar year—actual," "Present proforma year" and "Restated proforma year" are the same time periods indicated in § 1104.3, Cost study.

[1] Sources in this column apply to column (3) "Base calendar year—actual." Data for columns (4) through (7) should rely on column (3) as a base in order to reflect data for the "Present proforma year" and the "Restated proforma year." Annual report sources apply to class I motor carriers, for class II carriers use comparable sources.

[2] The data in column (3) should reflect the revenue need data (part I), and the traffic and cost study data (part II), for the traffic study year. That is, the "Base calendar year—actual," which should coincide with the "Base calendar year—actual" referred to in the Cost study (§ 1104.3). Parts I and II should be completed for each individual study carrier—the purpose being to allocate a portion of each carrier's system revenue need to the traffic at issue as provided for in part II. The results for all study carriers should then be aggregated and submitted on a combined carrier basis.

[3] The data in column (4) should be based on present wage, price and productivity levels and reflect conditions prevailing on a date no later than the 45 days prior to the date of the tariff filing.

[4] The data in columns (5), (6), and (7) should be based on wage, price, and productivity levels anticipated on the effective date of the proposed rates.

[5] The purpose of this column is to obtain data on what the system revenue needs of the study carriers should be at a given time. Part I should consider the sum of money in addition to operating expenses (including that needed to attract debt and equity capital) which the carriers feel they require to insure financial stability and the capacity to render service.

[6] In columns (4) through (7), show income taxes based on estimated taxable income reduced by the taxes applicable to other income such as, for example, capital gains transactions.

[7] In columns (4) through (7), determine the net income based on data shown for lines 1 through 7. In column (7), the estimate of the net income needed should be supported by evidence that it is a just and reasonable amount.

[8] Show expenses and revenues allocated to the total issue traffic based on an expansion of the sample to a full year. The amount shown on line 14 for variable expenses should agree with that shown in Method B, line (d)

Traffic and Cost Study Carrier _____

APPENDIX B—FINANCIAL RATIOS

(Complete appendix B for each traffic and cost study carrier and for all such carriers combined.)

Line No.	Item	Source [1]	Third preceding calendar year (actual)	Second preceding calendar year (actual)	First preceding calendar year (actual or estimated)
	(1)	(2)	(3)	(4)	(5)
1	Current assets [2]	A. R. Sch. 100, L.18	$	$	$
2	Net carrier operating property (owned) [3]	A. R. Sch. 100, L.21			
3	Net carrier operating property (owned plus leased to others) [3]	A. R. Sch. 100, L.21+L.23			
4	Net tangible property [3]	A. R. Sch. 100, L.26			
5	Intangibles [2]	A. R. Sch. 100, L.32			
6	Current liabilities [2]	A. R. Sch. 101, L.13			
7	Long-term debt [2]	A. R. Sch. 101, L.15+L.28			
8	Shareholders' equity [2]	A. R. Sch. 101, L.55			
9	Operating revenues	A. R. Sch. 2998, L.3			
10	Depreciation plus or minus depreciation adjustment	A. R. Sch. 2998, L.6+L.7			
11	Operating expenses	A. R. Sch. 2998, L.10			
12	Net carrier operating income	A. R. Sch. 2998, L.14			
13	Ordinary income before income taxes	A. R. Sch. 2998, L.28			
14	Net income or loss	A. R. Sch. 2998, L.35			
15	Net income or loss plus or minus depreciation [3]	L.10 plus L.14	$	$	$
16	Percent owned and leased property to net tangible property (3 decimals)	L.3÷L.4	%	%	%
17	Investment in owned and leased property plus working capital [4]		$	$	$
18	Shareholders' equity less intangibles	L.8−L.5	$	$	$
19	Long-term debt plus shareholders' equity less intangibles	L.7+L.18	$	$	$
20	Operating ratio (2 decimals)	L.11÷L.9	%	%	%
21	Current ratio (2 decimals)	L.1÷L.6			
22	Ratio net income or loss to operating revenue (2 decimals)	L.14÷L.9	%	%	%
23	Rate of return on owned and leased operating property plus working capital (2 decimals)	L.12÷L.17	%	%	%
24	Rate of return on shareholders' equity less intangibles (2 decimals)	L.14÷L.18	%	%	%
25	Capital structure ratio (2 decimals)	L.7÷L.19	%	%	%
26	Throwoff to debt ratio (2 decimals)	L.15÷L.7	%	%	%
27	Ratio long-term debt to shareholders' equity less intangibles (2 decimals)	L.7÷L.18	%	%	%

[1] Annual report sources refer to 1970 Motor Carrier Annual Report Form A for Class I Motor Carriers of Property. For class II carriers use the comparable sources. For years prior to 1970 use the comparable annual report sources.
[2] Show average of beginning and end of year figures.
[3] If carrier shows a net income, the amount shown for depreciation should be added to it; if a net loss, then the net loss and the amount for depreciation should be netted and the appropriate figure shown.
[4] Multiply the percent on line 16 by the difference between line 1 and line 6. Add the resulting amount to line 3.

[FR Doc.71-13250 Filed 9-10-71;8:45 am]

Title 50—WILDLIFE AND FISHERIES

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

SUBCHAPTER C—THE NATIONAL WILDLIFE REFUGE SYSTEM

PART 32—HUNTING

Brazoria National Wildlife Refuge, Tex.

On page 11,244 of the FEDERAL REGISTER of July 14, 1970, there was published a notice of a proposed amendment to 50 CFR 32.11. The purpose of this amendment is to provide public hunting of migratory game birds on Brazoria National Wildlife Refuge, Tex., as legislatively permitted.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections with respect to the proposed amendment. No comments, suggestions, or objections have been received. The proposed amendment is hereby adopted without change.

Since this amendment benefits the public by relieving existing restrictions on hunting of migratory game birds, it shall become effective upon publication in the FEDERAL REGISTER (9-11-71).

(Sec. 7, 80 Stat. 929, 16 U.S.C. 715i; sec. 4, 80 Stat. 927, 16 U.S.C. 668dd(c)(d)).

Section 32.11 is amended by the following addition:

§ 32.11 List of open areas; migratory game birds.

* * * * *

TEXAS

Brazoria National Wildlife Refuge.

* * * * *

J. P. LINDUSKA,
Acting Director, Bureau of Sport Fisheries and Wildlife.

SEPTEMBER 9, 1971.

[FR Doc.71-13503 Filed 9-10-71;8:54 am]

PART 32—HUNTING

Crab Orchard National Wildlife Refuge, Ill.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (9-11-71).

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

ILLINOIS

CRAB ORCHARD NATIONAL WILDLIFE REFUGE

Public hunting of teal on the Crab Orchard National Wildlife Refuge, Ill., is permitted from September 18 through September 26, 1971, but only on the area designated by signs as open to hunting. This open area, comprising 12,380 acres is delineated on a map available at the refuge headquarters, Carterville, Ill., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Hunting will be in accordance with all applicable State and Federal regulations subject to the following special conditions:

(1) Blinds—temporary blinds may be constructed. Blinds do not become the property of those constructing them.

(2) It is unlawful for any person to establish or use any blind for the taking of migratory waterfowl within 50 yards of any other blind on the refuge public hunting area.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuges generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through September 26, 1971.

TRAVIS S. ROBERTS,
Regional Director.

SEPTEMBER 2, 1971.

[FR Doc.71-13368 Filed 9-10-71;8:46 am]

PART 32—HUNTING

Brazoria National Wildlife Refuge, Tex.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (9-11-71).

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

TEXAS

BRAZORIA NATIONAL WILDLIFE REFUGE

Public hunting of teal ducks on the Brazoria National Wildlife Refuge, Tex., is permitted only on the area designated by signs as open to hunting. This open area, comprising approximately 400 acres of Rattlesnake Island on the southeast

side of the Intracoastal Waterway and adjacent to Christmas and Drum Bays, is delineated on maps available at refuge headquarters, Angleton, Tex., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, NM 87103. Hunting shall be in accordance with all applicable State and Federal regulations subject to the following special conditions:

(1) The open season for hunting teal ducks on the refuge extends from September 11 through September 19, 1971, inclusive.

(2) Access to the hunting area is entirely over public water routes. Travel across the refuge mainland to and from the area open to hunting is not permitted.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through September 19, 1971.

WILLIAM M. WHITE,
Acting Regional Director,
Albuquerque, N. Mex.

SEPTEMBER 7, 1971.

[FR Doc.71-13504 Filed 9-10-71;8:54 am]

PART 32—HUNTING

Medicine Lake National Wildlife Refuge, Mont.

Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by the Migratory Bird Conservation Act of February 18, 1929, as amended (45 Stat. 1222; 16 U.S.C. 715), and the National Wildlife Refuge System Administration Act of 1966 (80 Stat. 927 as amended; 16 U.S.C. 668dd), that 50 CFR Part 32 is amended by the addition of Medicine Lake National Wildlife Refuge, Mont., to the list of areas open to the hunting of upland game, as legislatively permitted.

It has been determined that regulated hunting of upland game may be permitted as designated on the Medicine Lake National Wildlife Refuge without detriment to the objectives for which the area was established.

Since this amendment benefits the public by relieving existing restrictions on hunting of upland game, and since this amendment is to conform to the State of Montana game laws, we find that notice and public procedure in accordance with the Administrative Procedures Act (5 U.S.C. 553(b)(B)) are impracticable and unnecessary, and it shall become effective upon publication in the FEDERAL REGISTER (9-11-71).

(Sec. 7, 80 Stat. 929, 16 U.S.C. 668dd(c)(d))

Section 32.21 is amended by the following addition:

§ 32.21 List of open areas: upland game.

* * * * *

MONTANA

Medicine Lake National Wildlife Refuge.

* * * * *

J. P. LINDUSKA,
Acting Director, Bureau of
Sport Fisheries and Wildlife.

SEPTEMBER 9, 1971.

[FR Doc.71-13491 Filed 9-10-71;8:54 am]

PART 32—HUNTING

Medicine Lake National Wildlife Refuge, Mont.

The following regulations are issued and are effective on date of publication in the FEDERAL REGISTER (9-11-71).

§ 32.32 Special regulations: upland game; for individual wildlife refuge area.

MONTANA

MEDICINE LAKE NATIONAL WILDLIFE REFUGE

Upland game birds may be hunted on the Medicine Lake National Wildlife Refuge, Medicine Lake, Mont. 59247.

General conditions. Hunting shall be in accordance with applicable State regulations. Portions of the refuge which are open to hunting are designated by signs and/or delineated on a map. No vehicle travel is permitted except on maintained roads and trails. Special conditions applying to this refuge are listed on the reverse side of a map available at refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 1500 Northeast Irving Street, Portland OR.

JOHN D. FINDLAY,
Regional Director, Bureau of
Sport Fisheries and Wildlife.

AUGUST 26, 1971.

[FR Doc.71-13505 Filed 9-10-71;8:54 am]

Title 32A—NATIONAL DEFENSE, APPENDIX

Chapter I—Office of Emergency Preparedness

[OEP Economic Stabilization Reg. 1; Circular No. 11]

SUPPLEMENTARY GUIDANCE FOR APPLICATION

Economic Stabilization Circular No. 11

This circular is designed for general information only. The statements herein are intended solely as general guides drawn from OEP Economic Stabilization Regulation No. 1 and from specific determinations by the Cost of Living Council and do not constitute legal rulings applicable to cases which do not conform to the situations clearly intended to be covered by such guides.

NOTE: Provisions of this and subsequent circulars are subject to clarification, revision, or revocation.

This 11th circular covers determinations by the Council through September 8, 1971.

APPENDIX I

ECONOMIC STABILIZATION CIRCULAR NO. 11

100. *Purpose.* (a) On August 15, 1971, President Nixon issued Executive Order No. 11615, as amended, providing for stabilization of prices, rents, wages, and salaries and establishing the Cost of Living Council, a Federal agency. The order delegated to the Council all of the powers conferred on the President by the Economic Stabilization Act of 1970, as amended. The effective date of the order was 12:01 a.m., August 16, 1971 .

(b) By its Order No. 1 the Council delegated to the Director of the Office of Emergency Preparedness authority to administer the program for the stabilization of prices, rents, wages, and salaries as directed by section 1 of Executive Order No. 11615, as amended.

(c) The purpose of this circular, the 11th in a series to be issued, is to furnish further guidance to Federal officials and the public in order to promote the program.

200. *Authority.* Relevant legal authority for the program includes the following:

The Constitution.
Economic Stabilization Act of 1970, Public Law 91-379, 84 Stat. 799; Public Law 92-15, 85 Stat. 38.
Executive Order No. 11615, as amended, 36 F.R. 15127, August 17, 1971.
Cost of Living Council Order No. 1, 36 F.R. 16215, August 20, 1971.
OEP Economic Stabilization Regulation No. 1, as amended, 36 F.R. 16515, August 21, 1971.

300. *General guidelines.* (a) The guidance provided in this circular is in the nature of additions to or clarifications of previous determinations of the Cost of Living Council covered in previous OEP Economic Stabilization Circulars.

(b) The numbering system used in this circular corresponds to that used in previous OEP Circulars.

301. *Seasonal patterns.* (a) A processor of agricultural products who, because of seasonal operations made no new sales in the base period, except forward sales, cannot sell at prices which prevailed in his marketing area for similar products in the 30 days ending August 14. Such processors are frozen at their price in either the 30-day period prior to August 15, or the price of their substantial deliveries during the last 30 days of operation in the previous season, or the seasonal price ceiling if the seller meets the criteria of the seasonality rule, or the May 25, 1970, date ceiling.

302. *May 25, 1970 levels.* (a) The Economic Stabilization Act of 1970 states that "The President is authorized to issue such orders and regulations as he may deem appropriate to stabilize prices, rents, wages and salaries at levels not less than those prevailing on May 25, 1970."

The level of prices, rents, wages and salaries prevailing on May 25, 1970, is determined as follows: (1) The average (mean) price at which transactions were made on that day (as borne out by appropriate records); (2) if no actual transactions took place on that day, then the average (mean) price at which transactions took place on the nearest day prior to May 25, 1970, may be taken as the "prevailing" level for May 25, 1970; and (3) ceiling prices for products, services and jobs not in existence on May 25, 1970, can only be calculated using the base period described by Executive Order 11615 and subsequent guidelines issued by the Cost of Living Council.

400. *Price guidelines.*

401. *General guidelines.* (a) A product or service is new if it is substantially different from other products or services in purpose, function, or technology, or if its use results in a substantially different outcome.

A product or service that differs slightly from other products and services in appearance, arrangement, or combination is not considered to be "new." Changes that are solely a matter of fashion, style, form, or packaging, do not qualify a product as "new." A slight functional modification to an existing product or service does not make it "new." What is normally referred to as a "new model" is not necessarily a "new product."

The ceiling price of a new product or service is determined by the seller applying the percentage markup he received during the base period on the most nearly similar product or service to the direct unit or net invoice cost of the new product or service.

The ceiling price of a product or service that is new to the seller, but not to the market, is the price realized on the same or comparable product or service by the most nearly comparable competitor during the base period.

NOTE: This paragraph supersedes paragraph 401(g) in OEP Economic Stabilization Circular No. 1.

(b) Specialized items produced to buyers' specifications are manufactured on an annual contract determined by competitive bids. The invitation for bids calls for shipments over a period of 3 months, with only the first month falling in the freeze period. The price is frozen at the base period level.

(c) In applying the substantial transactions test to determine the ceiling price that a businessman can charge his customers in the United States, he may not include prices on goods he exported during the base period.

(d) A manufacturer of holiday specialty items received and accepted firm orders during the base period. Items shipped during the freeze period cannot be based on the price at which he accepted these orders. By definition, a transaction occurs when goods are shipped. The ceiling price is the price at which a substantial volume of goods were shipped during the base period. In the case of the holiday items, the base period would be the nearest 30-day period in which transactions occurred.

(e) The freeze applies to prices of advance sale tickets for sporting events occurring during the freeze.

(f) A company manufactured a product in 1968 and the product was sold at a given price. The product has not been sold since then. The company now wishes to resume production of this product. It holds the patent on the product and nothing similar is sold on the market. The article must be priced at the level at which substantial transactions took place in the past. If the company had nothing comparable on the market during the base period, the price for this article is the 1968 price.

403. *Prices on imports.* (a) An importer or distributor of imported goods may avoid showing the import surcharge on sales tickets or invoices if he absorbs the entire amount of the surcharge.

404. *Sale of real estate.* (a) A home builder is building under FHA and VA programs. The lumber, steel, and nails used in his houses are imported and, therefore, subject to the 10 percent surcharge. When the 10 percent surcharge is added to the prices of his houses, it increases the price of the house above the FHA–VA ceilings. The builder may pass the 10 percent surcharge to the purchaser. The ceiling price is governed by stated Economic Stabilization Program criteria. However, this does not change the VA or FHA maximum loan value, which is computed in accordance with the criteria and regulations of those agencies.

406. *Commodities and services.* (a) A seller who has had a "promotional allowance" plan in effect during the base period, under the terms of which the seller's customers were compensated for the performance of promotional services or the provision of promotional facilities, may permit the "promotional allowance" plan to terminate during the freeze period if (1) the plan in effect during the base period was used to compensate the seller's customers for services actually rendered or facilities actually provided, and (2) the reduction in the allowance equates with the value of the reduction in services or facility usage. If such services or facilities were not provided, or if the compensation paid was excessive in relation to the value of the services or facilities, then an allowance is considered a price discount and subject to the rules governing price discounts.

500. *Wage and salary guidelines.*

502. *Specific guidelines.* (a) A labor contract contains a semiannual cost-of-living increase which was due prior to the freeze. However, the increase was delayed until the consumer price index was published. This increase can go into effect during the freeze. The increase was due and payable prior to the freeze and retroactive to that date. The employees were working at the increased rate prior to the freeze.

(b) It is the policy of an employer to increase the amount of paid vacation given company executives and other employees after they have completed a specified length of employment (e.g., increasing vacation from 2 to 3 weeks upon the completion of 10 years' service). Such increases are not allowed during the freeze. Increases in paid vacations are treated the same as longevity increases and may not be granted during the freeze.

(c) An employer who pays the entire cost of the group health insurance plan for his employees finds that by changing to a different insurer he may provide improved benefits for his employees at either no increase in premium or at a reduced premium cost to himself. The employer, during the freeze, may change to the new plan with improved benefits as long as he makes no additional contribution. Any savings realized, however, may not be passed along to the employees, since this would be an increase in real wages.

(d) Gold miners in Idaho are paid a special bonus every 2 weeks based on the price of gold. Such bonuses are not prohibited by the freeze. The miners can be paid on the same formula as that in existence during the base period.

1001. *Effective date.* This circular, unless modified, superseded, or revoked, is effective on the date of publication for a period terminating at midnight of November 13, 1971.

Dated: September 10, 1971.

G. A. LINCOLN,
Director,
Office of Emergency Preparedness.

[FR Doc.71-13563 Filed 9-10-71;1:30 pm]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Advertising and Other Activities

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by October 11, 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 October 11, 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] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

In order to conform the Income Tax Regulations (26 CFR Part 1) under sections 512(a) and 513 of the Internal Revenue Code of 1954 to section 121(c) of the Tax Reform Act of 1969 (83 Stat. 542), such regulations are amended as follows:

PARAGRAPH 1. Section 1.512(a)-1 is amended to read as follows:

§ 1.512(a)-1 Definition.

(a) *In general.* Section 512 defines "unrelated business taxable income" as the gross income derived from any unrelated trade or business regularly carried on, less those deductions allowed by chapter 1 of the Code which are directly connected with the carrying on of such trade or business, subject to the modifications referred to in § 1.512(b)-1. To be deductible in computing unrelated business taxable income, expenses, depreciation and similar items not only must qualify as deductions allowed by chapter 1 of the Code but also must be directly connected with the carrying on of an unrelated trade or business activity. Except as provided in paragraphs (d)(2) and (f) of this section, to be "directly connected with" the conduct of an unrelated business activity for purposes of section 512, an item of deduction must have proximate and primary relationship to the carrying on of that business activity. In the case of an organization which derives gross income from the regular conduct of two or more unrelated business activities, unrelated business taxable income is the aggregate of gross income from all such unrelated business activities less the aggregate of the deductions allowed with respect to all such unrelated business activities.

(b) *Expenses attributable solely to unrelated business activities.* Expenses, depreciation, and similar items attributable solely to the conduct of unrelated business activities are proximately and primarily related to that business activity, and therefore qualify for deduction to the extent that they meet the requirements of section 162, section 167, or other relevant provisions of the Code. connected with the conduct of that activity and are deductible in computing unrelated business activities are directly connected with the conduct of that activity and are deductible in computing unrelated business taxable income if they otherwise qualify for deduction under the requirements of section 162. Similarly, depreciation of a building used entirely in the conduct of unrelated business activities would be an allowable deduction to the extent otherwise permitted by section 167.

(c) *Dual use of facilities or personnel.* Where facilities are used both to carry on exempt activities and to conduct unrelated trade or business activities, expenses, depreciation and similar items attributable to such facilities (as, for example, items of overhead), shall be allocated between the two uses on a reasonable basis. Similarly, where personnel are used both to carry on exempt activities and to conduct unrelated trade or business activities, expenses and similar items attributable to such personnel (as, for example, items of salary) shall be allocated between the two uses on a reasonable basis. The portion of any such item so allocated to the unrelated trade or business activity is proximately and primarily related to that business activity, and shall be allowable as a deduction in computing unrelated business taxable income in the manner and to the extent permitted by section 162, section 167, or other relevant provisions of the Code. Thus, for example, assume that X, an exempt organization subject to the provisions of section 511, pays its president a salary of $20,000 a year. X derives gross income from the conduct of unrelated trade or business activities. The president devotes approximately 10 percent of his time during the year to the unrelated business activity. For purposes of computing X's unrelated business taxable income, a deduction of $2,000 (10 percent of $20,000), would be allowable for the salary paid to its president.

(d) *Exploitation of exempt activities*—(1) *In general.* In certain cases, gross income is derived from an unrelated trade or business activity which exploits an exempt activity. One example of such exploitation is the sale of advertising in a periodical of an exempt organization which contains editorial material related to the accomplishment of the organization's exempt purpose. Except as specified in subparagraph (2) of this paragraph and paragraph (f) of this section, in such cases, expenses, depreciation and similar items attributable to the conduct of the exempt activities are not deductible in computing unrelated business taxable income. Since such items are incident to an activity which is carried on in furtherance of the exempt purpose of the organization, they do not possess the necessary proximate and primary relationship to the unrelated trade or business activity and are therefore not directly connected with that business activity.

(2) *Allowable deductions.* Where an unrelated trade or business activity is of a kind carried on for profit by taxable organizations and where the exempt activity exploited by the business is a type of activity normally conducted by taxable organizations in pursuance of such business, expenses, depreciation, and similar items which are attributable to the exempt activity qualify as directly connected with the carrying on of the unrelated trade or business activity to the extent that:

(i) The aggregate of such items exceeds the income (if any) derived from or attributable to the exempt activity; and

(ii) The allocation of such excess to the unrelated trade or business activity does not result in a loss from such unrelated trade or business activity.

Under the rule of the preceding sentence, expenses, depreciation and similar items paid or incurred in the performance of an exempt activity must be allocated first to the exempt activity to the extent of the income derived from or attributable to the performance of that activity. Furthermore, such items are in no event allocable to the unrelated trade or business activity exploiting such exempt activity to the extent that their deduction would result in a loss carryover or carryback with respect to that trade or business activity. Similarly, they may not be taken into account in computing unrelated business taxable income attributable to any unrelated trade or business activity not exploiting the same exempt activity. See paragraph (f) of this section for the application of these rules to

periodicals published by exempt organizations.

(e) *Example.* Paragraphs (a) through (d) of this section are illustrated by the following example:

Example. W is an exempt business league with a large membership. Under an arrangement with an advertising agency W regularly mails brochures, pamphlets and other advertising materials to its members, charging the agency an agreed amount per enclosure. The distribution of the advertising materials does not contribute importantly to the accomplishment of the purpose for which W is granted exemption. Accordingly, the payments made to W by the advertising agency constitute gross income from an unrelated trade or business activity. In computing W's unrelated business taxable income, the expenses attributable solely to the conduct of the business, or allocable to such business under the rule of paragraph (c) of this section, are allowable as deductions in accordance with the provisions of section 162. Such deductions include the costs of handling and mailing, the salaries of personnel used full-time in the unrelated business activity and an allocable portion of the salaries of personnel used both to carry on exempt activities and to conduct the unrelated business activity. However, costs of developing W's membership and carrying on its exempt activities are not deductible. Those costs are necessary to the maintenance of the intangible asset exploited in the unrelated business activity—W's membership—but are incurred primarily in connection with W's fundamental purpose as an exempt organization. As a consequence, they do not have proximate and primary relationship to the conduct of the unrelated business activity and do not qualify as directly connected with it.

(f) *Determination of unrelated business taxable income derived from sale of advertising in exempt organization periodicals*—(1) *In general.* Under section 513 (relating to the definition of unrelated trade or business) and § 1.513–1, amounts realized by an exempt organization from the sale of advertising in a periodical constitute gross income from an unrelated trade or business activity involving the exploitation of an exempt activity, namely, the circulation and readership of the periodical developed through the production and distribution of the readership content of the periodical. Paragraph (d) of this section provides for the allowance of deductions attributable to the production and distribution of the readership content of the periodical. Thus, subject to the limitations of paragraph (d)(2) of this section, where the circulation and readership of an exempt organization periodical are utilized in connection with the sale of advertising in the periodical, expenses, depreciation, and similar items of deductions attributable to the production and distribution of the editorial or readership content of the periodical shall qualify as items of deductions directly connected with the unrelated advertising activity. Subparagraphs (2) through (6) of this paragraph provide rules for determining the amount of unrelated business taxable income attributable to the sale of advertising in exempt organization periodicals. Subparagraph (7) of this paragraph provides rules for determining when the unrelated business taxable income of two or more exempt organization periodicals may be determined on a consolidated basis.

(2) *Computation of unrelated business taxable income attributable to sale of advertising*—(i) *Excess advertising costs.* If the direct advertising costs of an exempt organization periodical (determined under subparagraph (6)(ii) of this paragraph) exceed gross advertising income (determined under subparagraph (3)(ii) of this paragraph), such excess shall be allowable as a deduction in determining unrelated business taxable income from any unrelated trade or business activity carried on by the organization.

(ii) *Excess advertising income.* If the gross advertising income of an exempt organization periodical exceeds direct advertising costs, paragraph (d)(2) of this section provides that items of deduction attributable to the production and distribution of the readership content of an exempt organization periodical shall qualify as items of deduction directly connected with unrelated advertising activity in computing the amount of unrelated business taxable income derived from the advertising activity to the extent that such items exceed the income derived from or attributable to such production and distribution, but only to the extent that such items do not result in a loss from such advertising activity. Furthermore, such items of deduction shall not qualify as directly connected with such advertising activity to the extent that their deduction would result in a loss carryback or carryover with respect to such advertising activity. Similarly, such items of deduction shall not be taken into account in computing unrelated business taxable income attributable to any unrelated trade or business activity other than such advertising activity. Thus—

(*a*) If the circulation income of the periodical (determined under subparagraph (3)(iii) of this paragraph) equals or exceeds the readership costs of such periodical (determined under subparagraph (6)(iii) of this paragraph), the unrelated business taxable income attributable to the periodical is the excess of the gross advertising income of the periodical over direct advertising costs; but

(*b*) If the readership costs of an exempt organization periodical exceed the circulation income of the periodical, the unrelated business taxable income is the excess, if any, of the total income attributable to the periodical (determined under subparagraph (3) of this paragraph) over the total periodical costs (as defined in subparagraph (6)(i) of this paragraph).

See subparagraph (7) of this paragraph for rules relating to the consolidation of two or more periodicals.

(iii) *Examples.* The application of this paragraph may be illustrated by the following examples. For purposes of these examples it is assumed that the production and distribution of the readership content of the periodical is related to the organization's exempt purpose.

Example (1). X, an exempt trade association, publishes a single periodical which carries advertising. During 1971, X realizes a total of $40,000 from the sale of advertising in the periodical (gross advertising income) and $60,000 from sales of the periodical to members and nonmembers (circulation income). The total periodical costs are $90,000 of which $50,000 is directly connected with the sale and publication of advertising (direct advertising costs) and $40,000 is attributable to the production and distribution of the readership content (readership costs). Since the direct advertising costs of the periodical ($50,000) exceed gross advertising income ($40,000), pursuant to subdivision (i) of this subparagraph, the unrelated business taxable income attributable to advertising is determined solely on the basis of the income and deductions directly connected with the production and sale of the advertising:

Gross advertising revenue	$40,000
Direct advertising costs	(50,000)
Loss attributable to advertising	(10,000)

X has realized a loss of $10,000 from its advertising activity. This loss is an allowable deduction in computing X's unrelated business taxable income derived from any other unrelated trade or business activity.

Example (2). Assume the facts as stated in example (1), except that the circulation income of X periodical is $100,000 instead of $60,000, and that of the total periodical costs, $25,000 are direct advertising costs, and $65,000 are readership costs. Since the circulation income ($100,000) exceeds the total readership costs ($65,000), pursuant to subdivision (ii)(*a*) of this subparagraph the unrelated business taxable income attributable to the advertising activity is $15,000, the excess of gross advertising income ($40,000) over direct advertising costs ($25,000).

Example (3). Assume the facts as stated in example (1), except that of the total periodical costs, $20,000 are direct advertising costs and $70,000 are readership costs. Since the readership costs of the periodical ($70,000), exceed the circulation income ($60,000), pursuant to subdivision (ii)(*b*) of this subparagraph the unrelated business taxable income attributable to advertising is the excess of the total income attributable to the periodical over the total periodical costs. Thus, X has unrelated business taxable income attributable to the advertising activity of $10,000 ($100,000 total income attributable to the periodical less $90,000 total periodical costs).

Example (4). Assume the facts as stated in example (1), except that the total periodical costs are $120,000 of which $30,000 are direct advertising costs and $90,000 are readership costs. Since the readership costs of the periodical ($90,000), exceed the circulation income ($60,000), pursuant to subdivision (ii)(*b*) of this subparagraph the unrelated business taxable income attributable to advertising is the excess, if any, of the total income attributable to the periodical over the total periodical costs. Since the total income of the periodical ($100,000) does not exceed the total periodical costs ($120,000), X has not derived any unrelated business taxable income from the advertising activity. Further, only $70,000 of the $90,000 of readership costs may be deducted in computing unrelated business taxable income since as provided in subdivision (ii) of this subparagraph, such costs may be deducted, to the extent they exceed circulation income,

only to the extent they do not result in a loss from the advertising activity. Thus, there is no loss from such activity, and no amount may be deducted on this account in computing X's unrelated trade or business income derived from any other unrelated trade or business activity.

(3) *Income attributable to exempt organization periodicals*—(i) *In general.* For purposes of this paragraph the total income attributable to an exempt organization periodical is the sum of its gross advertising income and its circulation income.

(ii) *Gross advertising income.* The term "gross advertising income" means all amounts derived from the unrelated advertising activities of an exempt organization periodical (or for purposes of this paragraph in the case of a taxable organization, all amounts derived from the advertising activities of the taxable organization).

(iii) *Circulation income.* The term "circulation income" means the income attributable to the production, distribution or circulation of a periodical (other than gross advertising income) including all amounts realized from or attributable to the sale or distribution of the readership content of the periodical, such as amounts realized from charges made for reprinting or republishing articles and special items in the periodical and amounts realized from sales of back issues. Where the right to receive an exempt organization periodical is associated with membership or similar status in such organization for which dues, fees or other charges are received (hereinafter referred to as "membership receipts"), circulation income includes the portion of such membership receipts allocable to the periodical (hereinafter referred to as "allocable membership receipts"). Allocable membership receipts is the amount which would have been charged and paid if—

(*a*) The periodical was that of a taxable organization,

(*b*) The periodical was published for profit, and

(*c*) The member was an unrelated party dealing with the taxable organization at arm's length.

See subparagraph (4) of this paragraph for a discussion of the factors to be considered in determining allocable membership receipts of an exempt organization periodical under the standard described in the preceding sentence.

(4) *Allocable membership receipts.* In determining the allocable membership receipts of an exempt organization periodical all the facts and circumstances involved in each case shall be considered. However, in cases where the factors described in subdivision (i) or (ii) of this subparagraph are significant, or in cases where the factor described in subdivision (iii) of this subparagraph exists, such determination shall be based solely upon the application of all of such factors that do exist. In cases where the preceding sentence does not apply all factors, including (but not limited to) the factors contained in subdivisions (iv) through (vii) of this subparagraph, shall be considered in determining allocable membership receipts. In order to avoid distortions which may arise from consideration of the facts and circumstances for only the taxable year, due regard shall be given to the facts and circumstances, including the application of all relevant factors for all preceding years. The factors used in determining such proper allocation include but are not limited to the following:

(i) *Subscription price charged to nonmembers.* The subscription price charged to nonmembers will be accorded greater weight than any other factor in determining allocable membership receipts where there are significant sales to nonmembers. Sales to nonmembers are significant if the circulation represented by such sales constitutes 20 percent or more of total circulation. Where sales to nonmembers constitute less than 20 percent of total circulation, this factor will not be given greater weight than any other factor and will be given progressively less weight in proportion to the degree that sales to nonmembers are less than 20 percent of total circulation.

(ii) *Subscription price to members.* If membership receipts from a significant percentage of members of an exempt organization are less than those received from the other members because such signficant percentage of members do not receive the periodical, such factor shall be given greater weight than the factor described in subdivision (iii) of this subparagraph but less weight than the factor described in subdivision (i) of this subparagraph in determining allocable membership receipts of the organization. Except as provided in the preceding sentence, the subscription price established by the organization for members will otherwise be given relatively little weight. For purposes of this subdivision, the percentage of members not receiving the periodical will be deemed significant only if it represents 20 percent or more of the total number of members. This factor will be given progressively greater weight as such percentage increases. On the other hand, this factor will be given relatively little weight, if any, if substantially all the members receive the periodical. Further, this factor will be given relatively little weight, in any event, if its use alone would result in the total deductions attributable to the periodical consistently exceeding the total income attributable to the periodical.

(iii) *Subscription price of comparable periodicals of taxable organizations.* The subscription price of a periodical published by a taxable organization will be given weight, but less weight than the factors described in subdivisions (i) and (ii) of this subparagraph, in determining allocable membership receipts of an exempt organization if such periodical is comparable to the exempt organization periodical. Periodicals are comparable only if the physical characteristics, the editorial content, and the advertising contained in both periodicals are substantially similar in content and amount. The fact that a taxable organization issues a periodical which is comparable to an exempt organization periodical and makes a practice of distributing substantially all of its circulation at no charge is substantial evidence that none of the membership receipts of the exempt organization are allocable to its periodical.

(iv) *Rate of return.* A determination of the amount which the exempt organization would be required to charge as a subscription price in order that the total income attributable to the periodical would produce a reasonable rate of return on the organization's investment in such periodical is relevant in determining allocable membership receipts. In other words, once an amount equal to a reasonable return on the investment is determined, circulation income might roughly correspond to the excess of such amount plus total periodical costs over gross advertising income. The amount of a reasonable rate of return on the organization's investment and the reliability of an allocation based upon such a figure depends upon such considerations as whether the organization is reasonably efficient, whether its total costs are reasonable, the degree of risk assumed, whether general ecomonic considerations indicate that such an activity might produce such a reasonable rate of return, and other similar considerations. In addition, this figure should be compared with the amounts obtained by evaluation of all other facts and circumstances.

(v) *Relationship of revenues from sales of periodicals of taxable organizations to revenues from sales of advertising.* Where one or more taxable organizations issue periodicals which are similar to an exempt organization periodical (but not comparable within the meaning of subdivision (iii) of this subparagraph), the relationship of revenues from the sales of such periodicals to revenues from the sale of advertising in such periodicals is of some assistance in determining allocable membership receipts of the exempt organization. For example, if it appears that similar taxable periodicals derive one-half as much income from sales of the periodical as from sale of advertising in the periodical, this is some indication that the exempt organization's circulation income might roughly correspond to an amount equal to one-half of the gross advertising income derived by the periodical. However, this factor could seldom, if ever, be used alone to determine allocable membership receipts, and is only to be used together with other factors in making this determination.

(vi) *Relationship of revenues from sales of periodicals of taxable organizations to total periodical costs.* Where one or more taxable organizations issue periodicals which are similar to an exempt organization periodical (but not comparable within the meaning of subdivision (iii) of this subparagraph), the relationship of revenues from sales of periodicals to total periodical costs of such periodicals is of some assistance in determining allocable membership receipts of the organization. For example, if it appears that similar periodicals derive from sales of the periodical an amount equal to one-fourth of their total

periodical costs, this is some indication that the exempt organization's circulation income might roughly correspond to an amount equal to one-fourth of its total periodical costs. However, this factor could seldom, if ever, be used alone to determine allocable membership receipts, and is only to be used together with other factors in making this determination.

(vii) *Pro rata allocation of membership receipts.* Since it may generally be assumed, absent indications to the contrary, that membership receipts and gross advertising income are equally available for all the exempt activities (including the periodical) of the organization, the relationship of total periodical costs to the sum of such total and the costs of other exempt activities is some indication of the amount of allocable membership receipts of the exempt organization. For example, assume that an exempt organization's total exempt activities costs are $100,000, of which $30,000 are the total periodical costs. Further assume that the membership receipts of this organization are $60,000. Under these circumstances, it could be determined that 30 percent ($30,000/$100,000) of the membership receipts are allocable to the publication, so that allocable membership receipts might be found to be $18,000 (30 percent of $60,000). In some cases, as a result of an organization setting aside funds in its exempt activities, or using borrowed funds or funds previously set aside in such activities, it may be difficult to determine the total costs for the period. As a consequence, since the aggregate of membership receipts, receipts from nonmembers, and gross advertising income is generally devoted to defraying total periodical costs plus other exempt costs of the organization, it may be necessary in some cases to consider the relationship of total periodical costs to such aggregate income in determining allocable membership receipts. For example, assume that an exempt organization's aggregate income consists of $90,000 from membership receipts and $30,000 from advertising. Its total periodical costs are $60,000 and its exempt activities costs (other than readership costs of the periodical) are $130,000, which are financed in part with borrowed funds. Under these circumstances, the relationship of total periodical costs ($60,000) to aggregate income ($120,000), or 50 percent, is some indication that $45,000 of the membership receipts (50 percent of $90,000) constitutes allocable membership receipts.

(5) *Examples.* The factors outlined in subparagraph (4) of this paragraph may be illustrated by the following examples. For purposes of these examples it is assumed that the exempt organization periodical contains advertising, and that the production and distribution of the readership content of the periodical is related to the organization's exempt purpose.

Example (1). U is an exempt scientific organization with 10,000 members who pay annual dues of $15 per year. One of U's activities is the publication of a monthly periodical which is distributed to all of its members. U also distributes 5,000 additional copies of its periodical to nonmember subscribers at a cost of $10 per year. Pursuant to subparagraph (4)(i) of this paragraph, since the nonmember circulation of U's periodical represents 33⅓ percent of its total circulation the subscription price charged to nonmembers will be accorded great weight in determining the portion of U's membership receipts allocable to the periodical. Thus, absent strong evidence to the contrary, U's allocable membership receipts will be $100,000 ($10 times 10,000 members), and U's total circulation income for the periodical will be $150,000 ($100,000 from members plus $50,000 from sales to nonmembers).

Example (2). Assume the facts as stated in example (1), except that U sells only 500 copies of its periodical to nonmembers, at a price of $10 per year. Assume further that U's members may elect not to receive the periodical, in which case their annual dues are reduced from $15 per year to $6 per year, and that only 3,000 members elect to receive the periodical and pay the full dues of $15 per year. U's stated subscription price to members of $9 consistently results in an excess of total income (including gross advertising income) attributable to the periodical over total costs of the periodical. Since the 500 copies of the periodical distributed to nonmembers represents only 14 percent of the 3,500 copies distributed, pursuant to subparagraph (4)(i) of this paragraph the $10 subscription price charged to nonmembers is given progressively less weight in determining the portion of membership receipts allocable to the periodical. On the other hand, since 70 percent of the members elect not to receive the periodical and pay $9 less per year in dues, pursuant to subparagraph (4)(ii) of this paragraph there is a strong indication that the subscription price charged to members is $9 per year. Considering these factors together, the allocable membership receipts appears to be $9 per member, or $27,000 ($9 times 3,000 copies).

Example (3). V, an exempt organization dedicated to the advancement of space exploration, has 30,000 members who pay annual dues of $25 per year. V publishes a monthly journal which is distributed to all of V's members as one of the benefits of membership. Five percent of the total circulation of V's journal is sold to nonmembers, primarily libraries and institutional users, for $15 per year. P, a nonexempt organization, also publishes a monthly journal related to space exploration. V and P publish many articles which are quite similar in purpose and content. The two publications have substantially similar physical characteristics, and the advertising in both publications consists almost entirely of institutional advertising of companies engaged in the space program and some advertising of scientific equipment. Under these circumstances, the publications may be comparable. P sends complimentary copies of its journal to all persons it has determined to be engaged in research with respect to space exploration including many of V's members. This distribution of free issues constitutes 85 percent of P's total circulation. Under these circumstances, the allocable membership receipts of V may be zero.

Example (4). Assume the facts as stated in example (3), except that 10,000 copies of V's journal are distributed to nonmember subscribers at a cost of $15 per year. Since the nonmember circulation of V's journal represents 25 percent of its total circulation (10,000 nonmember circulation/40,000 total circulation), pursuant to subparagraphs (4)(i) and (iii) of this paragraph the subscription price charged to nonmembers will be accorded greater weight than the comparability of P's journal in determining the portion of V's membership receipts allocable to the journal. Under these circumstances, there is a strong indication that V's allocable membership receipts are $450,000 ($15 times 30,000 members). Accordingly, V's total circulation income for the journal would be $600,000 ($450,000 from members plus $150,000 from sales to nonmembers).

Example (5). (a) W, an exempt trade association, has 800 members who pay annual dues of $50 per year. W publishes a monthly journal the editorial content and advertising of which are directed to the business interests of its own members. The journal is distributed to all of W's members, and only a few copies are available to, and negligible receipts are derived from, nonmembers. While there are no publications comparable to W's journal, several periodicals of similar size and content are distributed to businessmen in related fields by taxable organizations. These taxable organizations generally derive from such periodicals one-half as much income from circulation as from gross advertising income. In addition, these organizations generally derive from circulation an amount equal to 35 percent of their total periodical costs.

(b) After giving due regard to the financial data for all preceding years, the following data were determined to be representative for a typical year: W has total receipts of $100,000 of which $40,000 ($50×800) are membership receipts and $60,000 are gross advertising income. (The receipts from nonmembers were so negligible that they were disregarded.) W also has total costs of the journal and other exempt activities of $100,000. W has total periodical costs of $76,000 of which $41,000 are direct advertising costs and $35,000 are readership costs. An allocation is made on W's books treating $10 per member as the portion of membership receipts attributable to the journal, a total of $8,000 ($10×800) per year. In addition, based upon such factors as the value of W's investment in the journal and the degree of W's risks, a reasonable return on W's investment is $11,000.

(c) No weight will be given to the subscription price charged nonmembers as only a few copies are available to nonmembers.

(d) Virtually no weight will be given to the $8,000 figure allocated on W's books to the journal since all members receive the journal, and thus no significant percentage of the members pay less dues because they do not receive the journal. In addition, if $8,000 were treated as circulation income, total receipts from the journal would be $68,000 ($8,000+$60,000) which is less than the total periodical costs of $76,000.

(e) Since there are no comparable periodicals, no consideration can be given to the subscription price charged by comparable publications.

(f) In order for W to realize a return on its investment equal to $11,000, W's circulation income must equal $27,000, determined as follows:

Return on investment	$11,000
Plus: Total periodical costs	76,000
Total	87,000
Less: Gross advertising income	60,000
Circulation income (allocable membership receipts)	27,000

The weight given this figure depends upon such factors as W's efficiency, whether its total periodical costs of $76,000 are reasonable, whether general economic considerations indicate W's journal would produce such a rate or return, and how reasonable such figure is in comparison with the other

figures obtained by evaluation of all other facts and circumstances.

(g) Since similar taxable periodicals derive one-half as much income from sales of the periodical as from gross advertising income, this is some indication that $30,000 of W's membership receipts (one-half of $60,000 gross advertising income) is circulation income.

(h) Since similar taxable periodicals derive from sales of their periodicals an amount equal to 35 percent of their total periodical costs, this is some indication that $26,600 (35 percent of $76,000 total periodical costs) is circulation income.

(i) Based upon a pro rata allocation of membership receipts ($40,000) by a fraction the numerator of which is total periodical costs ($76,000) and the denominator of which is the total costs of the journal and the other exempt activities ($100,000), which fraction gives a percentage of 76 percent ($76,000/$100,000), there is some indication that $30,400 (76 percent of $40,000) of membership receipts is circulation income.

(j) The figures given some weight in this example with respect to the factors listed in subparagraph (4) of this paragraph are as follows:

From item (f), $27,000;
From item (g), $30,000;
From item (h), $26,600;
From item (i), $30,400.

Of the factors listed, the $27,000 figure, if it meets the conditions listed in item (f) may be given the greatest weight, since it is in the range of the other figures considered above.

(6) *Deductions attributable to exempt organization periodicals*—(i) *In general.* For purposes of this paragraph the term "total periodical costs" means the total deductions attributable to the periodical. For purposes of this paragraph the total periodical costs of an exempt organization periodical are the sum of the direct advertising costs of the periodical (determined under subdivision (ii) of this subparagraph) and the readership costs of the periodical (determined under subdivision (iii) of this subparagraph). Items of deduction properly attributable to exempt activities other than the publication of an exempt organization periodical may not be allocated to such periodical. Where items are attributable both to an exempt organization periodical and to other activities of an exempt organization, the allocation of such items must be made on a reasonable basis which fairly reflects the portion of such item properly attributable to each such activity. The method of allocation will vary with the nature of the item, but once adopted, a reasonable method of allocation with respect to an item must be used consistently. Thus, for example, salaries may generally be allocated among various activities on the basis of the time devoted to each activity; occupancy costs such as rent, heat and electricity may be allocated on the basis of the portion of space devoted to each activity; and depreciation may be allocated on the basis of space occupied and the portion of the particular asset utilized in each activity. Allocations based on dollar receipts from various exempt activities will generally not be reasonable since such receipts are usually not an accurate reflection of the costs associated with activities carried on by exempt organizations.

(ii) *Direct advertising costs.* (a) The direct advertising costs of an exempt organization periodical include all expenses, depreciation, and similar items of deduction which are directly connected with the sale and publication of advertising as determined in accordance with paragraphs (a), (b), and (c) of this section. These items are allowable as deductions in the computation of unrelated business income of the organization for the taxable year to the extent they meet the requirements of section 162, section 167, or other relevant provisions of the Code. The items allowable as deductions under this subdivision do not include any items of deduction attributable to the production or distribution of the readership content of the periodical.

(b) The items allowable as deductions under this subdivision would include agency commissions and other direct selling costs, such as transportation and travel expenses, office salaries, promotion and research expenses, and direct office overhead directly connected with the sale of advertising lineage in the periodical. Also included would be other items of deduction commonly classified as advertising costs under standard account classification, such as art work and copy preparation, telephone, telegraph, postage, and similar costs directly connected with advertising.

(c) In addition to the items of deduction normally included in standard account classifications relating to advertising costs, it is also necessary to ascertain the portion of mechanical and distribution costs attributable to advertising lineage. For this purpose, the general account classifications of items includible in mechanical and distribution costs ordinarily employed in business-paper and consumer publication accounting provide a guide for the computation. Thus, the mechanical and distribution costs in such cases would include the portion of the costs and other expenses of composition, presswork, binding, mailing (including paper and wrappers used for mailing), and the bulk postage attributable to the advertising lineage of the publication. The portion of mechanical and distribution costs attributable to advertising lineage of the periodical will be determined on the basis of the ratio of advertising lineage to total lineage of the periodical and the application of that ratio to the total mechanical and distribution costs of the periodical, where records are not kept in such a manner as to reflect more accurately the allocation of mechanical and distributions costs to advertising lineage of the periodical, and where there is no factor in the character of the periodical to indicate that such an allocation would be unreasonable.

(iii) *Readership costs.* The "readership costs" of an exempt organization periodical include expenses, depreciation or similar items which are directly connected with the production and distribution of the readership content of the periodical and which would otherwise be allowable as deductions in determining unrelated business taxable income under section 512 and the regulations thereunder if such production and distribution constituted an unrelated trade or business activity. Thus, readership costs include all the items of deduction attributable to an exempt organization periodical which are not allocated to direct advertising costs under subdivision (ii) of this subparagraph, including the portion of such items attributable to the readership content of the periodical, as opposed to the advertising content, and the portion of mechanical and distribution costs which is not attributable to advertising lineage in the periodical.

(7) *Consolidation*—(i) *In general.* Where an exempt organization subject to unrelated business income tax under section 511 publishes two or more periodicals for the production of income, it may treat the gross income from all (but not less than all) of such periodicals and the items of deduction directly connected with such periodicals (including readership costs of such periodicals), on a consolidated basis as if such periodicals were one periodical in determining the amount of unrelated business taxable income derived from the sale of advertising in such periodical. Such treatment must, however, be followed consistently and once adopted shall be binding unless the consent of the Commissioner is obtained as provided in sections 446(e) and § 1.446–1(e).

(ii) *Production of income.* For purposes of this subparagraph, an exempt organization periodical is "published for the production of income" if—

(a) The organization generally receives gross advertising income from the periodical equal to at least 25 percent of the readership costs of such periodical, and

(b) The publication of such periodical is an activity engaged in for profit.

For purposes of the preceding sentence, the determination whether the publication of a periodical is an activity engaged in for profit is to be made by reference to objective standards taking into account all the facts and circumstances involved in each case. The facts and circumstances must indicate that the organization carries on the activity with the objective that the publication of the periodical will result in economic profit (without regard to tax consequences), although not necessarily in a particular year. Thus, an exempt organization periodical may be treated as having been published with such an objective even though in a particular year its total periodical costs exceed its total income. Similarly, if an exempt organization begins publishing a new periodical, the fact that the total periodical costs exceed the total income for the startup years because of a lack of advertising sales does not mean that the periodical was published without an objective of economic profit. The organization may establish that the activity was carried on with such an objective. This might be established

by showing, for example, that there is a reasonable expectation that the total income, by reason of an increase in advertising sales, will exceed costs within a reasonable time. See § 1.183–2 for additional factors bearing on this determination.

(iii) *Example.* This subparagraph may be illustrated by the following example:

Example. Y, an exempt trade association, publishes three periodicals which it distributes to its members: a weekly newsletter, a monthly magazine, and quarterly journal. Both the monthly magazine and the quarterly journal contain advertising which accounts for gross advertising income equal to more than 25 percent of their respective readership costs. Similarly, the total income attributable to each such periodical has exceeded the total deductions attributable to each such periodical for substantially all the years they have been published. The newsletter carries no advertising and its annual subscription price is not intended to cover the cost of publication. The newsletter is a service of Y distributed to all of its members in an effort to keep them informed of changes occurring in the business world and is not engaged in for profit. Under these circumstances, Y may consolidate the income and deductions from the monthly and quarterly journals in computing its unrelated business taxable income, but may not consolidate the income and deductions attributable to the publication of the newsletter with the income and deductions of its other periodicals since the newsletter is not published for the production of income.

(g) *Foreign organizations*—(1) *In general.* The unrelated business taxable income of a foreign organization exempt from taxation under section 501(a) consists of:

(i) The organization's unrelated business taxable income which is derived from sources within the United States but which is not effectively connected with the conduct of a trade or business within the United States, plus

(ii) The organization's unrelated business taxable income effectively connected with the conduct of a trade or business within the United States (whether or not such income is derived from sources within the United States).

To determine whether income realized by a foreign organization is derived from sources within the United States or is effectively connected with the conduct of a trade or business within the United States, see part 1, subchapter N, chapter 1 of the Code (section 861 and following) and the regulations thereunder.

(2) *Effective dates.* Subparagraph (1) of this paragraph applies to taxable years beginning after December 31, 1969. For taxable years beginning on or before December 31, 1969, the unrelated business taxable income of a foreign organization exempt from taxation under section 501(a) consists of the organization's unrelated business taxable income which—

(i) For taxable years beginning after December 31, 1966, is effectively connected with the conduct of a trade or business within the United States, whether or not such income is derived from sources within the United States;

(ii) For taxable years beginning on or before December 31, 1966, is derived from sources within the United States.

(h) *Effective date.* Paragraphs (a) through (f) of this section are applicable with respect to taxable years beginning after December 12, 1967. However, if a taxpayer wishes to rely on the rules stated therein for taxable years beginning before December 13, 1967, he may do so.

PAR. 2. Section 1.513 is amended by revising section 513(c) and by adding an historical note. These amended and added provisions read as follows:

§ 1.513 Statutory provisions: unrelated trade or business.

SEC. 513 *Unrelated trade or business.* * * *

(c) *Advertising, etc., activities.* For purposes of this section, the term "trade or business" includes any activity which is carried on for the production of income from the sale of goods or the performance of services. For purposes of the preceding sentence, an activity does not lose identity as a trade or business merely because it is carried on within a larger aggregate of similar activities or within a larger complex of other endeavors which may, or may not, be related to the exempt purposes of the organization. Where an activity carried on for profit constitutes an unrelated trade or business no part of such trade or business shall be excluded from such classification merely because it does not result in profit.

[Sec. 513(c) as amended by sec. 121(c), Tax Reform Act 1969 (83 Stat. 542)]

PAR. 3. Section 1.513–1 is amended by revising paragraph (a), paragraph (b), and paragraph (f). These amended provisions read as follows:

§ 1.513–1 Definition of unrelated trade or business.

(a) *In general.* As used in section 512 the term "unrelated business taxable income" means the gross income derived by an organization from any unrelated trade or business regularly carried on by it, less the deductions and subject to the modifications provided in section 512. Section 513 specifies with certain exceptions that the phrase "unrelated trade or business" means, in the case of an organization subject to the tax imposed by section 511, any trade or business the conduct of which is not substantially related (aside from the need of such organization for income or funds or the use it makes of the profits 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, in the case of an organization described in section 511(a)(2)(B), to the exercise or performance of any purpose or function described in section 501(c)(3)). (For certain exceptions from this definition, see paragraph (e) of this section. For a special definition of "unrelated trade or business" applicable to certain trusts, see section 513(b).) Therefore, unless one of the specific exceptions of section 512 or 513 is applicable, gross income of an exempt organization subject to the tax imposed by section 511 is includible in the computation of unrelated business taxable income if: (1) It is income from trade or business; (2) such trade or business is regularly carried on by the organization; and (3) the conduct of such trade or business is not substantially related (other than through the production of funds) to the organization's performance of its exempt functions.

(b) *Trade or business.* The primary objective of adoption of the unrelated business income tax was to eliminate a source of unfair competition by placing the unrelated business activities of certain exempt organizations upon the same tax basis as the nonexempt business endeavors with which they compete. On the other hand, where an activity does not possess the characteristics of a trade or business within the meaning of section 162, such as when an organization sends out low-cost articles incidental to the solicitation of charitable contributions, the unrelated business income tax does not apply since the organization is not in competition with taxable organizations. However, in general, any activity of a section 511 organization which is carried on for the production of income and which otherwise possesses the characteristics required to constitute "trade or business" within the meaning of section 162—and which, in addition, is not substantially related to the performance of exempt functions—presents sufficient likelihood of unfair competition to be within the policy of the tax. Accordingly, for purposes of section 513 the term "trade or business" has the same meaning it has in section 162, and generally includes any activity carried on for the production of income from the sale of goods or performance of services. Thus, the term "trade or business" in section 513 is not limited to integrated aggregates of assets, activities and good will which comprise businesses for the purposes of certain other provisions of the Internal Revenue Code. Activities of producing or distributing goods or performing services from which a particular amount of gross income is derived do not lose identity as trade or business merely because they are carried on within a larger aggregate of similar activities or within a larger complex of other endeavors which may, or may not, be related to the exempt purposes of the organization. Thus, for example, the regular sale of pharmaceutical supplies to the general public by a hospital pharmacy does not lose identity as trade or business merely because the pharmacy also furnishes supplies to the hospital and patients of the hospital in accordance with its exempt purposes or in compliance with the terms of section 513(a)(2). Similarly, activities of soliciting, selling, and publishing commercial advertising do not lose identity as a trade or business even though the advertising is published in an exempt organization periodical which contains editorial matter related to the exempt purposes of the organization. However, where an activity carried on for the production of income constitutes an unrelated trade or business, no part of such trade or business shall be excluded from such classification merely because it does not result in profit.

* * * * *

(f) *Special rule respecting publishing businesses prior to 1970.* For a special rule for taxable years beginning before January 1, 1970, with respect to publishing businesses carried on by an organization, see section 513(c) of the Code prior to its amendment by section 121(c) of the Tax Reform Act of 1969 (83 Stat. 542).

* * * * *

PAR. 4. Section 1.513–2 is amended by revising paragraph (c) to read as follows:

§ 1.513–2 Definition of unrelated trade or business applicable to taxable years beginning before December 13, 1967.

* * * * *

(c) *Special rules respecting publishing businesses.* For a special rule with respect to publishing businesses carried on by an organization, see section 513(c) of the Code prior to its amendment by section 121(c) of the Tax Reform Act of 1969 (83 Stat. 542).

* * * * *

[FR Doc.71–13253 Filed 9–10–71;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Parts 722, 728, 775]

SET-ASIDE ACREAGE

Permission To Produce Crops on 1972 Set-Aside Acreage

Notice is hereby given that the Secretary is considering what crops should be permitted to be produced on acreage set aside under the Feed Grain, Wheat, and Upland Cotton Set-Aside Programs. Pursuant to the Agricultural Adjustment Act of 1938 and the Agricultural Act of 1949 as amended by the Agricultural Act of 1970, the Secretary may permit, subject to such terms and conditions as he may prescribe, all or any of the acreage set aside under the Feed Grain, Wheat, and Upland Cotton Set-Aside Programs to be devoted to the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, or other commodity, if he determines that such production is needed to provide an adequate supply, is not likely to increase the cost of the price-support program, and will not adversely affect farm income. The regulations governing the programs will be amended to specify the commodities which may be produced on the set-aside acreage during the 1972 crop year.

Interested persons are invited to submit written data, views, and recommendations pertaining to the commodities which may be produced in 1972 to the Director, Oilseeds, and Special Crops Division, Agricultural Stabilization and Conservation Services, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions made pursuant to this notice will be made available for public inspection in the office of the Director during regular business hours (8:15 a.m. to 4:45 p.m.). All submissions must, in order to be sure of consideration, be received not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER.

Signed at Washington, D.C., on September 9, 1971.

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

[FR Doc.71–13523 Filed 9–10–71;9:32 am]

[7 CFR Part 775]

FEED GRAIN SET-ASIDE, LOAN, PURCHASE, AND RESEAL PROGRAMS

Notice of Proposed Rule Making

Notice of proposed determinations relative to set-aside and diversion requirements, payment and loan rates, commodities eligible for reseal and program operating provisions.

Notice is hereby given that the Secretary of Agriculture under the authority of the Agricultural Act of 1949, as amended, proposes to make determinations and issue regulations relative to: (a) The set-aside requirement for feed grains; (b) the payment rate for corn, grain sorghums, and barley; (c) whether there should be provision for additional diversion, and, if so, the extent of such diversion and payment rates therefor; (d) the loan level for the 1972 crop of corn, grain sorghums, barley, oats, and rye, including commodity eligibility and storage requirements; (e) the crops of feed grains and wheat eligible for reseal loan for the 1972–73 storage period; and (f) detailed operating provisions to carry out the programs.

The determinations listed above are to be made based on the following considerations:

(a) *Set-aside requirement for feed grains.* The Act requires that the Secretary shall provide for a set-aside of cropland if he determines that the total supply of feed grains or other commodities will, in the absence of such a set-aside, likely be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices of feed grains and to meet a national emergency. If a set-aside of cropland is in effect, then as a condition of eligibility for loans, purchases, and payments, on corn, grain sorghums, and, if designated by the Secretary, barley, respectively, the producers on a farm must set aside and devote to approved conservation uses in acreage of cropland equal to (1) such percentage of the feed grain base for the farm as may be specified by the Secretary, plus (2) the acreage of cropland on the farm devoted in preceding years to soil-conserving uses as determined by the Secretary. It was previously announced by this Department that barley has been designated for inclusion in the set-aside program for 1972.

(b) *Payment rate for corn, grain sorghum, and barley.* The Act states that the Secretary shall make available to producers payments for each crop of corn, grain sorghums, and, if designated by the Secretary, barley. The payment rate for corn shall be at such rate as, together with the national average market price received by farmers for corn during the first 5 months of the marketing year for the crop, the Secretary determines will not be less than (1) $1.35 per bushel, or (2) 70 per centum of the parity price of corn as of the beginning of the marketing year, whichever is the greater. The payment rate for grain sorghums and, if designated by the Secretary, barley, shall be such rate as the Secretary determines fair and reasonable in relation to the rate at which payments are made available for corn.

(c) *Whether there should be provision for additional diversion and, if so, the extent of such diversion and the payment rates therefor.* The Act provides that to assist in adjusting the acreage of commodities to desirable goals, the Secretary may make land diversion payments, in addition to the set-aside payments to producers on a farm who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in addition to that required to be so devoted under the regular set-aside program. The land diversion payments for a farm are required to be at such rate or rates as the Secretary determines to be fair and reasonable taking into consideration the diversion undertaken by the producers and the productivity of the acreage diverted. The Secretary is required to limit the total acreage to be diverted under agreements in any county or local community so as not to adversely affect the economy of the county or local community.

(d) *Loan and purchase rates.* The Act provides for making loans and purchases on the 1972 crop of corn available to producers at a level not less than $1 per bushel nor in excess of 90 per centum of the parity price. The loan and purchase rate so determined must encourage the exportation of feed grains and not result in excessive total stocks of feed grains in the United States. Loans and purchases on the 1972 crops of barley, oats, and rye, respectively, are required to be made available at such level as the Secretary determines is fair and reasonable in relation to the level that loans and purchases are made available for corn. In setting such level, consideration is required to be given to the feeding value of such respective commodity in relation to corn, the supply of the commodity in relation to demand therefor, price levels at which other commodities are being supported, the availability of funds, the perishability of the commodity, the importance of the commodity to agriculture and the national economy, the ability to dispose of stocks acquired through a price-support operation, the need for offsetting temporary losses of export markets, and the ability and willingness of producers to keep supplies in line with demand. Loans and purchases on the

1972 crop of grain sorghums are required to be at such level as the Secretary determines is fair and reasonable in relation to the level that loans and purchases are made available for corn. In setting such level, consideration is required to be given to the feeding value, and the average transportation costs to market, of grain sorghums in relation to corn.

(e) *Farm stored reseal loan program.* Consideration is also being given to extending the maturity dates of outstanding loans secured by various crops of feed grains such as corn, grain sorghums, barley, and oats, and of wheat under a farm storage reseal program. Determinations relating to the need for such a program are based on such factors as, but not limited to, the need to isolate stocks of these commodities from the market, to stabilize, support and protect farm incomes and prices, assist farmers to get a fair share of the market for their commodities and to maintain a commodity reserve to meet changing world conditions.

(f) *Detailed operating provisions to carry out the program.* Detailed regulations for the set-aside program for feed grains, commodity eligibility requirements, storage requirements, and related requirements necessary to carry out these programs are also being reviewed for 1972. Provisions of this kind under current programs may be found in the feed grain set-aside program regulations (36 F.R. 12835, July 8, 1971) and in the regulations governing loans, purchases and other operations for grains and similarly handled commodities which appear in Title 7 Part 1421 of the Code of Federal Regulations.

Statutory authority for the foregoing determinations are contained in sections 105 and 401, 63 Stat. 1051, as amended, and sections 4 and 5, 62 Stat. 1070; 7 U.S.C. 1441 note and 1421, 15 U.S.C. 714b and 714c.

Prior to making any of the foregoing determinations, consideration will be given to any data, views, and recommendations which are submitted in writing to the Director, Grain Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250. In order to be sure of consideration, all submissions must be received by the Director not later than 30 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 Director during regular business hours (8:15 a.m. to 4:45 p.m.).

Signed at Washington, D.C., on September 9, 1971.

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

[FR Doc.71-13520 Filed 9-10-71;8:54 am]

Commodity Credit Corporation

[7 CFR Part 1421]

FEED GRAIN SET-ASIDE, LOAN, PURCHASE, AND RESEAL PROGRAMS

Notice of Proposed Rule Making

CROSS REFERENCE: For a document issued jointly by the Agricultural Stabilization and Conservation Service and the Commodity Credit Corporation relating to feed grain programs, see F.R. Doc. 71-13520, Agricultural Stabilization and Conservation Service, *supra*.

Consumer and Marketing Service

[7 CFR Part 999]

RAISIN IMPORTS

Notice of Extension of Time for Receipt of Written Data, Views, or Arguments

Pursuant to the requirements of section 8e (7 U.S.C. 608e-1) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), a notice of proposed rule making was published in the July 14, 1971, issue of the FEDERAL REGISTER (36 F.R. 13098) regarding proposed grade, size, and other requirements governing the importation of raisins.

The notice afforded interested persons opportunity to submit written data, views, or arguments to be received by the Hearing Clerk not later than 60 days after publication of the aforesaid notice.

Request for extension of the time for the receipt of comments has been made to afford interested persons additional time to consider the proposal.

Notice is hereby given that the time for receipt of written data, views, or arguments on the aforesaid proposal is extended to November 30, 1971.

Dated: September 8, 1971.

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

[FR Doc.71-13411 Filed 9-10-71;8:49 am]

FEDERAL POWER COMMISSION

[18 CFR Parts 154, 157]

[Docket No. R-425]

AREA RATES FOR THE ROCKY MOUNTAIN AREA

Order on Reconsideration

SEPTEMBER 7, 1971.

On July 15, 1971, we issued a notice of proposed rule making and order prescribing procedure in this proceeding (36 F.R. 13621, July 22, 1971) proposing to issue rules fixing the just and reasonable rates and otherwise regulating jurisdictional sales of natural gas made under contracts dated before October 1, 1968, in the Rocky Mountain area, and to determine whether the initial rates established by our Order No. 435 for said area should apply to contracts dated on or after October 1, 1968 for such sales. On August 9, 12, 13, 17, and 30, 1971, applications for rehearing and petitions for clarification of our order on procedure were filed by various parties to this proceeding.[1] Most of the applications for rehearing have one basis that is common to all, and our consideration of that basis shall be applicable to each application.

The petitioners contend the Commission erred in that the notice of July 15, did not provide for the promulgation of rules providing for the establishment of just and reasonable rates for any sales other than those made under contracts dated prior to October 1, 1968. The petitioners acknowledge that the rates prescribed by our Order No. 435 are initial rates, not subject to refund, for sales in this area after June 17, 1970, and that in this proceeding (Docket No. R-425) we are considering whether or not those rates should also cover sales made under contracts dated on and after October 1, 1968 to June 17, 1970. However, petitioners contend that (1) this proceeding should establish just and reasonable rates for the area for all of the periods of time involved herein, or (2) that just and reasonable rates should be established not only for the period prior to October 1, 1968, but also for those contracts dated on and after October 1, 1968, up to and including those dated on June 17, 1970. In this regard, petitioners do not aver that the Commission erred in law, but, in petitioners' opinions, it erred in its determination as to the scope of the proceeding. We do not agree. We carefully considered the procedural steps to be taken in this proceeding, which we initiated on the same date we issued Order No. 435. We there determined that the most expeditious manner in which stability in rates, and hopefully an increase in gas supply for the interstate market could be achieved is the procedure we have prescribed in our notice and order. Despite the assurances of some of the petitioners, e.g., the petition and motion filed by Amoco, our experience

[1] Applications for rehearing, clarification or modification were filed by Amerada Hess Corp., et al., Amoco Production Co., Continental Oil Co., El Paso Natural Gas Co., Four Corners Gas Producers Association, Mobil Oil Corp., State of New Mexico, and Tenneco Oil Co. These applications are treated as motions for reconsideration, pursuant to § 1.30 (e) of the Commission's rules of practice and procedure, inasmuch as there is no final order of the Commission in Docket No. R-425, as defined in section 19(a) of the Natural Gas Act, 15 U.S.C. section 717r (1963) and § 1.30 of the Commission's rules of practice and procedure.

with the lengthy adjudicatory type hearing and equally lengthy court litigation, in other area proceedings involving the establishment of just and reasonable rates causes us to conclude that the public interest requires us to restrict the issue of establishing just and reasonable rates in this proceeding to contracts dated prior to October 1, 1968. The issue of whether the initial service rates established in Order No. 435, under Section 7 of the Act, should be applied to contracts dated between October 1, 1968 and June 17, 1970, is both a policy and procedural matter within our discretion.[1] Cf. Permian Basin Area Rate Cases, 390 U.S. 747, 767 (1968); Environmental Defense Fund v. Hardin, 428 F. 2d 1093, 1099 (CADC 1970).

Amerada Hess et al., and Continental Oil Co. state that they must be afforded an evidentiary hearing prior to the determination of just and reasonable rates. We find that such a contention is both premature and untenable at this stage of the proceeding. We need not rule on the merits of such contentions, where as here, no evidence has as yet even been submitted at this preliminary juncture. Petitioners have not set forth with any specificity either the evidence they wish to cross-examine or rebut, or the testimony they have been precluded from presenting.

However, we reject Amerada and Continental's contentions that the Commission cannot prescribe just and reasonable rates for natural gas producers without an evidentiary hearing. Petitioners have incorrectly interpreted the Commission's mandate under the Natural Gas Act and the requirements of the Administrative Procedure Act (APA). Section 2(c) of the APA, 5 U.S.C. section 551(4)(5) (1967) expressly states that rulemaking includes ratemaking. Moreover, contrary to petitioners' contentions, rulemaking is expressly excluded from adjudication, by section 2(d) of that Act. 5 U.S.C. section 551(6)(7) (1967).

Under section 4 of the APA, the Commission, acting pursuant to its rulemaking authority, is required to give notice and the opportunity for interested persons to submit written comments. This we so provided for in our notice of July 15, 1971. American Trucking Association v. U.S., 344 U.S. 298, 320 (1952), Automotive Parts & Accessories Association v. Boyd, 407 F. 2d 330, 335–6 (CADC, 1968), California Citizens Band Association v. U.S., 375 F. 2d 43 (CA9, 1967), certiorari denied 389 U.S. 844 (1967), Hunt Oil Co. v. F.P.C., 424 F. 2d 982, 985 (CA5, 1970). Even assuming arguendo, that a full evidentiary hearing is required, section 7(c) of the APA specifically states that when a party will not be prejudiced in a rulemaking proceeding, procedures may be adopted for the submission of the evidence in written form. 5 U.S.C. section 556(d) (1967). Petitioners have not shown that they would be prejudiced by the procedures adopted in our notice of July 15, 1971. In fact, petitioners only attack the Commission's authority to conduct this proceeding. Thus, we reject these contentions.

El Paso, in its petition, asks the Commission to modify paragraph 7 of the notice and order of July 15, 1971, so that the requirement therein that the pipeline companies named in Appendix C to the notice and order, among which El Paso is named, shall complete, verify and file within 45 days flowing gas costs and operation data on an individual company 1969 test year basis for the Rocky Mountain Area and its six subareas, be deleted. El Paso states that historically in area rate proceedings pipeline flowing gas costs were not utilized by the staff in preparing its cost presentations. El Paso points to exhibits and testimony of staff in prior proceedings which tend to show that the staff was of the opinion that only the costs of independent producers and pipeline affiliates were to be utilized in computing staff's flowing gas costs in the area. We find these arguments persuasive. Inasmuch as pipeline production data has not been used by us in prior area rate proceedings, we see no reason to require such data in these proceedings. We will so amend our notice.

The Commission finds:

The petitions for reconsideration, filed herein by Amoco Production Co. on August 9, 1971; El Paso Natural Gas Co. on August 12, 1971; Amerada Hess Corp. et al., and Continental Oil Co. on August 13, 1971; State of New Mexico and Four Corners Gas Producers Association on August 13, 1971, and Tenneco Oil Co. on August 19, 1971, present no further facts, or principles of law which were not fully considered by the Commission in the notice and order of July 15, 1971, or which, having now been considered warrant any change or modification of that notice and order.

The Commission orders:

(1) Those natural gas pipeline purchasers listed in Appendix C of our notice instituting proposed rulemaking and order prescribing procedure of July 15, 1971, are not required to furnish the data requested in that notice.

(2) In all other respects the above petitions are denied.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.71-13440 Filed 9-10-71;8:51 am]

[1] If it is determined that Order No. 435 rates would not apply, then the rates now in effect, even if subject to refund, would continue in effect.

Notices

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[Marketing Agreement 146]

1971 CROP PEANUTS

Indemnification

Pursuant to the provisions of section 36 of the marketing agreement regulating the quality of domestically produced peanuts heretofore entered into between the Secretary of Agriculture and various handlers of peanuts (30 F.R. 9402) and upon recommendation of the Peanut Administrative Committee established pursuant to such agreement and other information, it is hereby found that the amendment hereinafter set forth to the Terms and Conditions of Indemnification Applicable to 1971 Crop Peanuts (36 F.R. 12632) will tend to effectuate the objectives of the Agricultural Marketing Agreement Act of 1937, as amended, and of such agreement.

Amendment of the Terms and Conditions of Indemnification is necessary to remove the 2 percent price deduction on lots of unsuccessfully remilled peanuts that are to be delivered to the Commodity Credit Corporation (CCC) in lieu of having such peanuts custom blanched.

Therefore, in the present seventh paragraph of the Terms and Conditions of Indemnification Applicable to 1971 Crop Peanuts, the following words are deleted from the end of the third sentence: "or 2 percent of such value if the lot is to be delivered to CCC in lieu of custom blanching."

The Peanut Administrative Committee has recommended that this amendment be issued as soon as possible so as to implement and effectuate the provisions of the marketing agreement dealing with indemnification. Marketing of the 1971 peanut crop is underway and such terms and conditions for actual operations under the agreement should therefore be modified and made effective as soon as possible, i.e., on the effective date specified herein. Handlers of peanuts who will be affected by such amendment have signed the marketing agreement authorizing the issuance of such terms and conditions, they are represented on the committee which recommended such amendment, this action relieves restrictions, and time does not permit prior notice of the proposed amendment to such handlers.

The foregoing amendment is hereby approved and issued this 8th day of September 1971, to become effective upon publication in the FEDERAL REGISTER (9-11-71).

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

[FR Doc.71-13389 Filed 9-10-71;8:47 am]

DEPARTMENT OF COMMERCE

Office of Import Programs

CALIFORNIA INSTITUTE OF TECHNOLOGY

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. 71-00196-15-29900. Applicant: California Institute of Technology, 1201 East California Boulevard, Pasadena, CA 91109. Article: Birefringent tuneable universal filter. Manufacturer: Bernard Halle, West Germany.

Intended use of article: The article will be used for the vidicon camera on the Apollo Telescope Mount (ATM) Photoheliograph.

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 purpsoes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides birefringent tuneable universal filtration for the wavelength range 4,300 angstroms (Å) to 7,000 Å with a bandwidth of 0.25 Å at 6,563 Å and 0.10 Å at 4,500 Å. Such filtration is pertinent to the applicant's research studies. We are advised by the National Bureau of Standards (NBS) in its memorandum dated January 28, 1971, that it knows of no 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.71-13413 Filed 9-10-71;8:49 am]

CITY COLLEGE OF CITY UNIVERSITY OF NEW YORK

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. 71-00156-01-77030. Applicant: The City College of the City University of New York, Department of Chemistry, Convent Avenue and 138th Street, New York, NY 10031. Article: NMR spectrometer, Model HFX-2/0. Manufacturer: Bruker Scientific, Inc., West Germany.

Intended use of article: The article will be used for research concerning an investigation of nitrates, imines, and hydrozines to define the relationship between coupling and molecular geometry; investigation of labeled compounds of biological importance; energy barriers for rotation abut N-N bond; the location of "amorphous" regions in polymer single crystals; and for a study of the mechanism of compaction in desalination membranes.

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, was being manufactured in the United States at the time the article was ordered (June 9, 1969).

Reasons: The captioned application is a resubmission of Docket No. 70-00374-01-77030 which was denied without prejudice to resubmission due to informational deficiencies contained therein. The foreign article provides a heteronuclear field frequency stabilization system which can lock on either protons or 19-fluorine. Effective September 1969, the Model XL100-15 manufactured by Varian Associates (Varian), which provides a heteronuclear field frequency stabilization system which can lock on either protons or 19-fluorine became available. However, at the time the foreign article was ordered the most closely comparable domestic instrument was the Varian Model HA100-15 which did not provide a heteronuclear field frequency stabilization system which could lock on either protons or 19-fluorine.

We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated February 11, 1971, and the National Bureau of Standards (NBS) in its memorandum dated March 11, 1971, that a heteronuclear field frequency stabilization system which can lock on either protons or 19-fluorine is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the Model HA100-15 was not of equivalent scientific value to the foreign article, for the purposes for which such 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 was being manufactured in the United States at the time the foreign article was ordered.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71-13414 Filed 9-10-71;8:49 am]

CLARK 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. 71-00221-33-46500. Applicant: Clark University, 950 Main Street, Worcester, MA 01610. Article: Ultramicrotome, Model OmU2. Manufacturer: C. Reichert Optische Werke A.G., Austria.

Intended use of article: The article will be used to prepare ultrathin sections of rat tissues—liver, adrenals, pineal glands, nerve fibers; lichens; algae, and fungal cells; and nerve fibers of a number of marine invertebrates and frogs. The investigations concern the function of cells, and more specifically, the fine structure-function relationships of subcellular organelles and membrane systems.

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: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00118-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting, (among such [other] obvious factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned." In connection with another prior (Docket No. 69-00665-33-46500) relating to the duty-free entry of a similar foreign article, HEW advised that "The range of cutting speeds and a capability for the higher cutting speeds is * * * a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has not shown difficult to section."

In connection with still another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of a similar foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.5 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec. We are advised by HEW in its memorandum of January 29, 1971, that cutting speeds in excess of 4 mm./sec. are pertinent to the applicant's research studies involving the ultrathin serial sectioning of porous and/or soft specimen materials as lichen or adrenal tissue. HEW cites as a precedent its prior recommendation relating to Docket No. 70-00832-33-46500 which conforms in many particulars to the captioned application.

We, therefore, find that the Model MT-2B ultramicrotome 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.71-13415 Filed 9-10-71;8:49 am]

CORNELL 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. 70-00356-33-46500. Applicant: Cornell University, Veterinary Virus Research, Ithaca, N.Y. 14850. Article: Ultramicrotome, Model LKB 8800. Manufacturer: LKB Produkter A.B., Sweden.

Intended use of article: The article will be used to prepare ultrathin sections of animal tissues and tissue culture cells for electron microscopy. The fields of application include virology, bacteriology and biochemistry. The studies planned include fine structure of animal viruses in host cells; fine structure of cell wall and microcapsular material of Brucella; and correlative ultrastructure and histochemical alterations in collagen.

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: Examination of the applicant's thin sections under the electron miscroscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness, etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00665-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are otbained when the speed of cutting (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speed is, therefore, a pertinent characteristic of the ultra microtome to be used for sectioning materials that experience has shown difficult to section."

In connection with another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness, etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of August 12, 1970, that a wide range of cutting speeds frequently in excess of 4 mm./sec. for the softer tissues are pertinent to the need for long series of uniform ultrathin sections required in the applicant's research studies encompassing virology, bacteriology, and biochemistry of animal diseases.

We, therefore, find that the Model MT–2B ultramicrotome 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 articles, 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.71–13416 Filed 9–10–71;8:49 am]

FERRIS STATE 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. 70–00158–33–84100. Applicant: Ferris State College, School of Health Sciences and Arts, Big Rapids, Mich. 49307. Article: Teaching aid and plates, Opticart. Manufacturer: Adam, Rouilly & Co., Ltd., United Kingdom.

Intended use of article: The article will be used for classroom and independent study of different medical subjects by a projected demonstration system based on the stroboscopic effect, thus creating movement on the plate being projected.

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 article provides demonstrations of 54 medical subjects covering a large portion of the field of medicine. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated April 5, 1971, that the characteristics of the article described above are pertinent to the applicant's intended purposes. HEW further advises that it knows of no comparable instrument or apparatus that provides the pertinent characteristics of the article.

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.71–13417 Filed 9–10–71;8:49 am]

IOWA STATE UNIVERSITY

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

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

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71–00512–33–46500. Applicant: Iowa State University, Department of Zoology and Entomology, Ames, Iowa 50010. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden.

Intended use of article: The article will be used for research on immunofertilization and sperm-egg interactions in Limulus polyphemus, and fertilization and reproductory systems in isopods and ticks. Special techniques involving cytochemistry and immunology will be used on the tissues which have a wide range of texture.

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: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69–0665–33–46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section."

In connection with another prior case (Docket No. 70–00077–33–46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness, etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT–2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT–2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of July 23, 1971, that cutting speeds in excess of 4 mm./sec. are pertinent to the applicant's studies involving sperm-egg interactions in tick and horshoe crab which requires sectioning eggs that have gelatinous envelopes and soft interiors presenting a range of physical properties difficult to section. HEW cites as a precedent its prior recommendation relating to Docket No. 71–00322–33–46500 which conforms in many particulars to the captioned application.

We, therefore, find that the Model MT–2B ultramicrotome 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.71–13418 Filed 9–10–71;8:49 am]

IOWA STATE UNIVERSITY

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

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

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71–00136–98–25500. Applicant: Iowa State University, Ames Laboratory, Ames, Iowa 50010. Article: Automatic balancing a.c. resistance bridge.

Manufacturer: Automatic Systems Laboratories, United Kingdom.

Intended use of article: The article will be used primarily for the measurement of the resistance of four-terminal germanium or platinum resistance thermometers. These measurements include electrical resistance, thermal conductivity, thermal expansion and heat capacity measurements at temperatures down to 0.1 K.

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 accurate to 10^{-3} of the standard resistance and has the sensitivity to be useable with a power dissipation of 10^{-9} watts in a 1,000 ohm thermometer with a sensitivity of 0.02 ohms.

We are advised by the National Bureau of Standards (NBS) in its memorandum dated November 30, 1970, that the characteristics of the article described above are pertinent to the applicant's research studies. NBS further advises, that it knows of no domestically manufactured alternating current resistance bridge that provides the pertinent characteristics.

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.71-13419 Filed 9-10-71;8:49 am]

JOHNS HOPKINS 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. 71-00233-33-43780. Applicant: The Johns Hopkins University, Charles and 34th Streets, Baltimore, MD 21218. Article: Endoscope. Manufacturer: Manabu Medical Instruments Co., Ltd., Japan.

Intended use of article: The article will be used in an otolarynology residency course in Broncho-Esophagology. The content of the course includes a study of the endoscopic manifestations of diseases of the tracheobronchial tree and esophagus.

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 provides the maximum sized telescope which can be passed through the existing bronchoscopes and esophagoscopes in use by the applicant and is capable of providing the required photographic illumination of the field of view. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated February 5, 1971, that the compatability of the article with existing equipment plus the article's photographic capabilities are pertinent to the purposes, for which the foreign article is intended to be used. HEW further advises, that it knows of no comparable domestic instrument which provides both pertinent characteristics of the foreign article.

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. 71-13420 Filed 9-10-71;8:49 am]

MELOY LABORATORIES, MEL LAB INC.

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. 71-00528-00-46040. Applicant: Meloy Laboratories, Mel Lab, Inc., 6631 Iron Place, Springfield, VA 22151. Article: Exposure measurement and control instrument. Manufacturer: Siemens A.G., West Germany.

Intended use of article: The article is an accessory for an existing Elmiskop IA electron microscope.

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 application relates to an accessory for an instrument that had been previously imported for the use of the applicant institution. The article is being furnished by the manufacturer which produced the instrument with which the article is intended to be used.

The Department of Commerce knows of no similar accessory being manufactured in the United States, which is interchangeable with or can be readily adapted to the instrument with which the foreign article is intended to be used.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71-13421 Filed 9-10-71;8:49 am]

MINNEAPOLIS MEDICAL RESEARCH FOUNDATION, INC.

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. 71-00416-33-46500. Applicant: Minneapolis Medical Research Foundation, Inc., at Hennepin County General Hospital, 619 Fifth Street South, Minneapolis, MN 55415. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden.

Intended use of article: The article will be used to perform ultrathin structures of a variety of tissues and materials in preparation for ultrastructural examination by an electron microscope. These materials include insulin secreting granules from pancreatic islets; lung tissue from baboons, dogs, and humans; clostridium perfringens bacteria; mumps virus; neurons and glail elements from nervous tissues; and various human tissue biopsies including liver, kidney, and intestine.

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: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness, etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00665-33-46500) which relates to the duty-free entry of

an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting, (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section."

In connection with another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of May 14, 1971, that cutting speeds that are greater than 4 mm./sec. are pertinent to the satisfactory ultrathin sectioning of soft specimens needed in the ultrastructural examination of human tissue biopsies and soft lung and nervous tissue. HEW cites as a precedent its prior recommendation relating to Docket No. 71-00170-33-46500 which conforms in many particulars to the captioned application.

We, therefore, find that the Model MT-2B ultramicrotome 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.71-13422 Filed 9-10-71;8:50 am]

OHIO STATE UNIVERSITY

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

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

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00294-33-46070. Applicant: The Ohio State University, Department of Otolaryngology, 190 North Oval Drive, Columbus, OH 43210. Article: Scanning electron microscope, Model Mark IIA. Manufacturer: Cambridge Instrument Co., Ltd., United Kingdom.

Intended use of article: The article will be used for investigations of the surface topography of the inner ear; the study of the freeze drying process by means of a cold stage; the examination of the bone tissues of the middle and inner ears; the study of hearing damage following prolonged exposure to noisy environment; and for experiments on the ototoxicity of certain antibiotics.

The microscope will be used in connection with courses dealing with various aspects of otolaryngology for medical students and resident physicians.

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: Captioned application is a resubmission of Docket No. 70-00057-33-46070 which was received on July 18, 1969 and denied without prejudice because of informational deficiencies contained therein. The foreign article is equipped with a dual diffusion pump system which permits the vacuum in the column and the specimen chamber to be independently maintained. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated March 10, 1971, that the dual diffusion pump system of the foreign article is pertinent to the applicant's research studies. HEW further advises that it knows of no domestically manufactured scanning electron microscope that provided the pertinent characteristic at the time the foreign article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States at the time the foreign article was ordered.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71-13423 Filed 9-10-71;8:50 am]

RETINA FOUNDATION

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. 71-00279-33-46595. Applicant: Retina Foundation, 20 Staniford Street, Boston, MA 02114. Article: Polytron tissue grinder Type PT 20 OD. Manufacturer: Apotheke Oberstrauss, Switzerland.

Intended use of article: The article will be used for research to evaluate the activity of the fragmented sarcoplasmic retriculum and mitochondria in normal and diseased muscles in the hope of discovering causes and eventual cures for various diseases such as muscular dystrophy.

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 provides gentle homogenization in the centrifuge tube of small samples of human biopsy tissue without disruption of mitochondria. We are advised by the Department of Health, Education, and Welfare in its memorandum dated February 19, 1971, that the characteristics described above are pertinent to the purposes for which the foreign article is intended to be used. HEW further advises that it knows of no comparable domestic instrument being manufactured in the United States of equivalent scientific value to the foreign article for the purposes for which the foreign 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.71-13424 Filed 9-10-71;8:50 am]

SCRIPPS CLINIC AND RESEARCH FOUNDATION ET AL.

Notice of Applications For Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C.

20230, within 20 calendar days after the date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited Act, as published in the October 14, 1969, issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C.

Docket No. 71–00566–33–40700. Applicant: Scripps Clinic and Research Foundation, 476 Prospect Street, La Jolla, CA 92037. Article: Gammacell 40 small animal irradiator. Manufacturer: Atomic Energy of Canada Ltd., Canada. Intended use of article: The article will be used for three major areas of investigation: (1) The effects of X-radiation on antigen processing and lymphocyte receptors for antigens; (2) immunopathology of chronic viral infections; and (3) induction and maintenance of immunological unresponsiveness. Application received by Commissioner of Customs: May 24, 1971.

Docket No. 71–00586–00–46040. Applicant: Johns Hopkins University, Charles and 34th Streets, Baltimore, MD 21218. Article: Film cassette and kit. Manufacturer: Siemens A.G., West Germany. Intended use of article: The article will be used with an existing Elmiskop 1A electron microscope. Application received by Commissioner of Customs: June 9, 1971.

Docket No. 71–00587–33–46040. Applicant: Temple University, Fels Research Institute, 3420 North Broad Street, Philadelphia, PA 19140. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronics NVD, The Netherlands. Intended use of article: The article will be used for research investigating the molecular mechanism for the development of cancer, using as a model liver cancer induced in the rat by chemical carcinogens, such as aflatoxin, ethionine, and acetylaminofluorene. The application of electron microscopy will be taught in courses on cellular pathology, biochemistry of the aging and advanced biochemistry and the biology of neoplasia. Application received by Commissioner of Customs: June 9, 1971.

Docket No. 71–00578–01–77040. Applicant: University of Missouri—St. Louis, 8001 Natural Bridge Road, St. Louis, MO 63121. Article: Mass spectrometer, Model MS–1201. Manufacturer: Associated Electrical Industries, Ltd., United Kingdom. Intended use of article: The article will be used for a project involving a study of intermediates formed in the oxidation of the lower boron hydrides and alkyl boranes; for research in the area or organo-sulfur and carbocyclic systems; and for a kinetic and mechanistic study of the reaction of hydrocarbons with methylene and deutero-methylene. Educational use will be in two courses, Instrumental Analysis and Chemistry Research. Application received by Commissioner of Customs: June 7, 1971.

Docket No. 71–00588–00–11000. Applicant: University of Pittsburgh, Department of Chemistry, 4200 Fifth Avenue, Pittsburgh, PA 15212. Article: LKB 9010 mass marker and LKB 9043 heated inlet. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The articles are accessories for an existing LKB 9000 gas chromatograph-mass spectrometer. Application received by Commissioner of Customs: June 9, 1971.

Docket No. 71–00589–33–46070. Applicant: University of Rhode Island, Kingston, RI 02881. Article: Scanning electron microscope, Model S4. Manufacturer: Cambridge Scientific Instruments, Ltd., United Kingdom. Intended use of article: The article will be used in research areas of micropaleontology, bacteriology, phycology, marine microbiology, invertebrate and vertebrate zoology, sedimentation, particulate chemistry, and botany. Specific research activities include the study of the surfaces and ultrastructure of recent and fossil Foraminifera, Radiolaria and sediment grain surfaces related to paleoecological and paleoenvironmental studies; the study in detail of the surface characteristics of a wide variety of both hard and soft animal and plant tissues; and the study of the taxonomy and life cycles of marine phytoplankton, including cocolithophorids, diatoms, and silicoflagellates. The article will also be used in teaching the following courses: Marine Paleoecology, Marine Bacteriology, Recent Sedimentary Environments, Phytoplankton Taxonomy, Phytoplankton Ecology, Zooplankton, Marine Invertebrates and Environment, Animal Micropaleontology, Phycology, Plant Anatomy, and Plant Nematology. Application received by Commissioner of Customs: June 14, 1971.

Docket No. 71–00590–80–30050. Applicant: The Johns Hopkins University, Purchasing Department, Charles and 34th Streets, Baltimore, MD 21218. Article: Two (2) miniflo flow velocity kits. Manufacturer: Kent Lea Instruments, Ltd., United Kingdom. Intended use of article: The article will be used in hydraulic model studies of momentum jet entrainment in heated effluents discharged horizontally into transverse currents. Application received by Commissioner of Customs: June 14, 1971.

Docket No. 71–00591–01–77040. Applicant: Stanford University, 820 Quarry Road, Palo Alto, CA 94303. Article: Mass spectrometer, Model MAT 711. Manufacturer: Varian Mat, West Germany. Intended use of article: The article will be used in the development of a closed-loop mass spectrometer-computer system capable in real time of collecting and interpreting mass spectra without human assistance and to apply this system to relevant problems in chemistry and biology. Application received by Commissioner of Customs: June 14, 1971.

Docket No. 71–00592–33–46040. Applicant: Northwestern University Medical School, 303 East Chicago Avenue, Chicago, IL 60611. Article: Electron microscope, Model HU–12. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used in research concerning the structure and function of the nerve cell and its microenvironment within the central nervous system. In particular the research involves fine structure and cytochemistry of catecholamine uptake, storage and release mechanisms; analysis of extracellular transport mechanisms in the central nervous system; ultrastructural analysis of microtubular transport system of neurons and neuroglial cells. Medical students will also be trained in electron microscopy with the article. Application received by Commissioner of Customs: June 15, 1971.

Docket No. 71–00593–00–46040. Applicant: Washington University, 660 South Euclid, St. Louis, MO 63110. Article: Siemens image intensifier, No. M311191–A1–A20. Manufacturer: Siemens A.G., West Germany. Intended use of article: The article is an accessory for an existing Elmiskop 101 electron microscope. Application received by Commissioner of Customs: June 14, 1971.

Docket No. 71–00594–33–43780. Applicant: The Hospital of the Good Samaritan, 1212 Shatto Street, Los Angeles, CA 90017. Article: Charnley femoral prosthesis. Manufacturer: Chas. F. Thackary Ltd., United Kingdom. Intended use of article: The article will be used specifically for low-friction arthroplasty operations on the hip. The procedures are done in a laminar air-flow operation module by trained orthopedic surgeons. Application received by Commissioner of Customs: June 15, 1971.

Docket No. 71–00595–33–46040. Applicant: Mercy Hospital Laboratory, 1000 North Village Avenue, Rickville Centre, NY 11570. Article: Electron microscope, EM 95–2. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article will be used in the study of diseases of the kidney, liver, bone marrow, and tumor biopsies for the specific purpose of a more definite diagnosis of disease on ultrastructure. The article will also be used in a training program of operation of the electron microscope and related techniques.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71–13425 Filed 9–10–71;8:50 am]

SLOAN-KETTERING INSTITUTE FOR CANCER RESEARCH

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. 71-00411-33-46500. Applicant: Sloan-Kettering Institute for Cancer Research, 425 East 68th Street, New York, NY 10021. Article: Ultramicrotome, Model LKB 8800A, and accessories. Manufacturer: LKB Produkter A.B., Sweden.

Intended use of article: The article will be used for research to determine the nature of the alterations in the cell surface associated with malignant transformation of normal cells. Another project concerns electron microscopic screening of human and other mammalian tumors and tumor-derived cell lines in an attempt to detect potentially oncogenic viruses. These studies require serial sectioning of single cells.

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: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness, etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00665-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section."

In connection with another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness, etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of May 14, 1971, that cutting speeds in excess of 3.2 mm./sec. are pertinent to the applicant's studies of cell surface changes associated with malignant transformation, in which labeled antibodies are used to study ultrastructures of cell surface, which requires uniform thin serial sections of single cells in relatively soft embedding media. HEW cites as reference its prior recommendation relating to Docket No. 71-00045-33-46500 which conforms in many particulars to the captioned application.

We, therefore, find that the Model MT-2B ultramicrotome 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.71-13426 Filed 9-10-71;8:50 am]

UNIVERSITY OF CALIFORNIA

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. 71-00232-01-35000. Applicant: University of California, Los Alamos Scientific Laboratory, Accounting Department, Post Office Box 1663, Los Alamos, NM 87544. Article: Small optical two-circle goniometer. Manufacturer: Stoe & Co., West Germany.

Intended use of article: The article will be used to study the interfacial angles of crystalline compounds of radioactive elements to determine crystal symmetry for identification by classification as to type and class.

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 provides the capabilities of a two-circle goniometer which are essential in measuring the interfacial angles of single crystals as a part of a single crystal X-ray diffraction study.

We are advised by the National Bureau of Standards (NBS) in its memorandum dated February 26, 1971, that the capabilities of a two-circle goniometer are pertinent to the purposes for which the foreign article is intended to be used. NBS further advises, that it knows of no 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.71-13427 Filed 9-10-71;8:50 am]

UNIVERSITY OF ILLINOIS

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. 71-00309-33-46500. Applicant: University of Illinois, Purchasing Division, 223 Administration Building, Urbana, IL 61801. Article: Ultramicrotome, Model OmU2. Manufacturer: C. Reichert Optische Werke A.G., Austria.

Intended use of article: The article will be used for research involving cholinergic oxidative and dehydrogenase enzyme systems at ultrastructural levels. The investigation will localize intracellularly acetylcholinesterase (AchE) choline acetylase, microsomal oxidase, and lactate dehydrogenases (LDH) in differentiated neural tissue of selected teleost, mammals and insects.

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: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness, etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00118-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting (among such [other] obvious factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned." In connection with another prior case (Docket No. 69-00665-33-46500) relating to the duty-free entry of a similar foreign article,

HEW advised that "The range of cutting speeds and a capability for the higher cutting speeds is a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section."

In connection with another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness, etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of March 19, 1971, that a wide range of cutting speeds, particularly above 4 mm./sec., is pertinent to the accommodation of the diversity of materials encountered in the applicant's research studies involving enzyme systems at ultrastructural levels in neural tissue of insects, fish, and mammals.

We, therefore, find that the Model MT-2B ultramicrotome 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.71-13428 Filed 9-10-71;8:50 am]

UNIVERSITY OF ILLINOIS

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. 71-00532-00-77040. Applicant: University of Illinois, Purchasing Division, 223 Administration Building, Urbana, Ill. 61801. Article: Electrical detection accessory kit. Manufacturer: Associated Electrical Industries, United Kingdom.

Intended use of article: The electrical detection unit will be used to upgrade the analytical capabilities of an existing MS-7 mass spectrometer.

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 application relates to an accessory for an instrument that had been previously imported for the use of the applicant institution. The article is being furnished by the manufacturer which produced the instrument with which the article is intended to be used.

The Department of Commerce knows of no similar accessory being manufactured in the United States, which is interchangeable with or can be readily adapted to the instrument with which the foreign article is intended to be used.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71-13429 Filed 9-10-71;8:50 am]

UNIVERSITY OF MARYLAND

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. 71-00191-33-46500. Applicant: University of Maryland, 660 West Redwood Street, Baltimore, MD 21201. Article: Ultramicrotome, Model OmU2. Manufacturer: C. Reichert Optische Worke A.G., Austria.

Intended use of article: The article will be used to section arbovirus-infected cells of 50 angstrom units thickness or less for electron microscopy as part of work in research involving the elucidation of developmental biology of arboviruses in vertebrate and invertebrate hosts.

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: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness, etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00118-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting (among such [other] obvious factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned." In connection with another prior case (Docket No. 69-00665-33-46500) relating to the duty-free entry of a similar foreign article, HEW advised that "The range of cutting speeds and a capability for the higher cutting speeds is a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section."

In connection with another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness, etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of January 19, 1971, that cutting speed in excess of 4 mm./sec. are pertinent to the applicant's research involving the vertebrate and invertebrate host cells and the development of arboviruses. HEW cites as precedent its prior recommendation relating to Docket No. 70-00729-33-46500 which conforms in many particulars with the captioned application.

We, therefore, find that the Model MT-2B ultramicrotome 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.71-13430 Filed 9-10-71;8:50 am]

UNIVERSITY OF MASSACHUSETTS

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. 71–00451–33–46500. Applicant: University of Massachusetts Medical School, 419 Belmont Street, Worcester, MA 01604. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden.

Intended use of article: The article will be used for studies dealing with the in vivo and in vitro uptake of metals by cells and tissues taken from normal and from experimentally diseased animals. A primary aim is the electron microscopic study of the uptake of transferrin-bound iron. A course entitled "Ultrastructural Aspects of Diseases" will be taught to second year medical students and medical technical students.

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: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness, etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69–00665–33–46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section."

In connection with another prior case (Docket No. 70–00077–33–46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness etc.," requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT–2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT–2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of July 16, 1971, that cutting speed in excess of 4 mm./sec. are pertinent to the provision production of series of equal thickness sections of the softer blocks encountered in the applicant's studies involving sectioning of cell blocks of pulmonary macrophages for auto radiographic electron micrographs. HEW cites as precedent its prior recommendation relating to Docket No. 71–00045–33–46500 which conforms in many particulars to the captioned application.

We, therefore, find that the Model MT–2B ultramicrotome 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.71–13431 Filed 9–10–71;8:50 am]

UNIVERSITY OF NEBRASKA

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. 71–00502–33–46500. Applicant: University of Nebraska, College of Medicine, 42d Street and Dewey Avenue, Omaha, NE 68105. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden.

Intended use of article: The article will be used to study biological materials, primarily from mammalian experimental animals. Cell membrane alterations as they relate to tumor development will be investigated, focusing on precancerous and early cancerous cell alterations during skin and lung tumor development, including alterations of cell membranes and organelles.

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

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

Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness, etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69–0065–33–46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section."

In connection with another prior case (Docket No. 70–00077–33–46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness, etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT–2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT–2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of July 23, 1971, that cutting speeds in excess of 4 mm./sec. are pertinent to the applicant's studies of cell membrane alterations for events which lead to the definitive lung or skin tumor requiring ultrathin serial sectioning of soft embryotic lung tissue. HEW cites as a precedent its prior recommendation relating to Docket No. 71–00250–33–46500 which conforms in many particulars to the captioned application.

We, therefore, find that the Model MT–2B ultramicrotome 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.71–13432 Filed 9–10–71;8:51 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. 71-00270-01-86500. Applicant: University of Pennsylvania, Office of Research Administration, Franklin Building, 3451 Walnut Street, Philadelphia, PA 19104. Article: Rheogoniometer, Model R.18. Manufacturer: Sangamo Controls, Ltd., United Kingdom.

Intended use of article: The article will be used for studies of polymer solutions and melts, and for viscoelastic properties, including non-Newtonian viscosity and normal stresses, as functions of molecular structure of the polymers. Viscosity and normal stresses as functions of shear rate will be measured, as well as dynamic measurements (small amplitude sinusoidal shearing) with and without superimposed steady-state shearing.

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 the capability of measuring normal force, as well as viscosity as a function of the rate of shear. This capability of the foreign article is pertinent to the purposes for which the 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.71-13433 Filed 9-10-71;8:51 am]

UNIVERSITY OF VIRGINIA

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. 71-00518-33-46500. Applicant: University of Virginia, School of Medicine, Department of Anatomy, Charlottesville, Va. 22901. Article: LKB 8800 ultramicrotome complete with cryo-accessory. Manufacturer: LKB Produkter A.B., Sweden.

Intended use of article: The article will be used to study biological tissues derived from developing, normal, and regenerating animals (amphibia, avian, and mammalian). The experiments to be conducted include electron microscopic studies of normal retinal development and regeneration and studies on cell cycle kinetics.

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: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high-quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness, etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00665-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section."

In connection with another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness, etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of July 23, 1971, that cutting speeds in excess of 4 mm./sec. are pertinent to the applicant's studies of intercellular regulation in regeneration or development of eyes in amphibians and other animals involving retinae which are frequently difficult to section. HEW cites as a precedent its prior recommendation relating to Docket No. 71-00214-33-46500 which conforms in many particulars to the captioned application.

We, therefore, find that the Model MT-2B ultramicrotome 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.71-13434 Filed 9-10-71;8:51 am]

UNIVERSITY OF WASHINGTON

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. 71-00137-87-78700. Applicant: University of Washington, Department of Civil Engineering, 121 More Hall (274536), Seattle, WA 98105. Article: Theodolite, Model DKM-3. Manufacturer: Kern & Co., Ltd., Switzerland.

Intended use of article: The article will be used for conducting deformation studies by photogrammetric measurements to confirm motion by precise angulation techniques. Courses in Geometronics, Celestial Methods in Geodesy, and Geodesy will use the article since they deal with precision position.

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 provides precise measurements to less than 1 second. We are advised by the National Bureau of Standards (NBS) in its memorandum dated February 17, 1971, that precise measurements to less than 1 second is a pertinent characteristic of the foreign article. NBS further advises that it knows of no scientifically equivalent domestic instrument or apparatus that can be used for all the applicant's intended purposes.

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.71-13435 Filed 9-10-71;8:51 am]

VETERANS' ADMINISTRATION HOSPITAL, SAN FRANCISCO, CALIF.

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.).

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. 71-00454-33-46500. Applicant: Veterans' Administration Hospital, 4150 Clement Street, San Francisco, CA 94121. Article: Ultramicrotome, Model OmU2. Manufacturer: C. Reichert Optische Werke A.G., Austria.

Intended use of article: The article will be utilized for the preparation of thin and thick sections of osmium tetroxide and glutaraldehyde fixed and epoxy resin embedded material. These sections, which are examined by electron and light microscopy, are a part of research in the area of liver and gut, lipid, cholesterol, drug and steroid metabolism.

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: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness, etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00118-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting, (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned." In connection with another prior case (Docket No. 69-00665-33-46500) relating to the duty-free entry of a similar foreign article, HEW advised that "The range of cutting speeds and a capability for the higher cutting speeds is a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section."

In connection with another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of July 16, 1971, that the extended range of cutting speeds of the foreign article is pertinent to the production of blemish-free sections of uniform thickness with maximum precision which is required in the applicant's studies involving quantitative electron microscopy of various tissues including very limited biopsy material. HEW cites as a precedent its prior recommendations relating to Dockets Nos. 70-00680-33-46500 and 70-00729-33-46500 which conform in many particulars to the captioned application.

We, therefore, find that the Model MT-2B ultramicrotome 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.71-13436 Filed 9-10-71;8:51 am]

WOODS HOLE OCEANOGRAPHIC INSTITUTION

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. 71-00286-58-46070. Applicant: Woods Hole Oceanographic Institution, Water Street, Woods Hole, MA 02543. Article: Scanning electron microscope, Model JSM-U3. Manufacturer: Japan Electron Optics Laboratory Co., Ltd., Japan. Intended use of article: The article will be used for research concerning the morphology of small planktonic crustaceans called copepods, collected from widely different areas. Other investigations involve formainifera, radiolarians, bottom sediments and suspended materials in sea water.

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, was being manufactured in the United States at the time the foreign article was ordered (November 13, 1969).

Reasons: The foreign article is equipped with a rapid TV scan attachment which provides a picture having a continuous motion instead of the interrupted motion provided by the conventional mode of presentation. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated March 10, 1971, that the characteristic of the article described above is pertinent to the purposes for which the article is intended to be used. HEW further advises that it knows of no comparable domestic instrument which provided this pertinent capability at the time the foreign article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States at the time the foreign article was ordered.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71-13437 Filed 9-10-71;8:51 am]

YALE 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. 71-00398-33-07730. Applicant: Yale University, Purchasing Department, 260 Whitney Avenue, New Haven, CT 06520. Article: X-ray diffraction camera. Manufacturer: Baird & Tatlock, United Kingdom.

Intended use of article: The article will be used for research on the molecular arrangements present in biological membranes and the structure of atherosclerotic deposits in deceased human arterial tissue. X-ray diffraction theory and technique will be taught in courses on Molecular Biophysics and Biochemistry for undergraduate and graduate students.

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 provides focussed X-rays of high intensity which minimizes the exposure time required to obtain an X-ray diffraction pattern. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated May 7, 1971, that the characteristics of the article described above are pertinent to the applicant's intended purposes. HEW further advises that it knows of no domestic X-ray camera which provides the pertinent characteristics of the article.

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.71-13438 Filed 9-10-71;8:51 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

FD&C RED NO. 2

Color Additives; Notice Concerning the Filing of Data About Specific Uses

Preliminary data on reproduction studies with FD&C Red No. 2, one of the color additives provisionally listed, have recently come to the attention of the Food and Drug Administration. These data indicate that the aggregate use of this color may need to be lowered from the level at which it has been heretofore used. Section 706(b)(8) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 376(b)(8)) concerns those cases where it may be necessary to allocate the aggregate allowable safe tolerance of a color additive among uses.

Pursuant to § 8.11 of the color additive regulations (21 CFR 8.11), all persons interested in the use of FD&C Red No. 2 after December 31, 1971, are hereby notified to present their data as to all specific uses showing the amounts of this color proposed for continued use in foods, ingested drugs, and ingested cosmetics not later than October 31, 1971. The required data should be sent to the Food and Drug Administration, Bureau of Foods, Office of Compliance, Division of Petitions Processing, 200 C Street SW., Washington, D.C. 20204.

Dated: September 7, 1971.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.71-13367 Filed 9-10-71;8:46 am]

PROVISIONALLY LISTED COLOR ADDITIVES

Notice Concerning Certain Scientific Investigations

Section 8.501 of the color additive regulations (21 CFR 8.501), designates those color additives that are provisionally listed pursuant to section 203(b) of the Color Additive Amendments of 1960 (sec. 203(b), Public Law 86-618, 74 Stat. 405; 21 U.S.C. 376, note). Section 203 provided for provisionally listing certain color additives on an interim basis pending completion of scientific investigations needed as a basis for making determinations as to whether they should or should not be listed under section 706 of the Federal Food, Drug, and Cosmetic Act (sec. 706, 74 Stat. 399-403; 21 U.S.C. 376).

It has been determined that, for those uses of color additives listed in paragraphs (a) and (b) of § 8.501 of the color additive regulations which involve ingestion because of use in products such as food, drugs for internal use, and cosmetic lipsticks, petitions for regulations under section 706 of the act shall include reports of studies for teratological potential and reports of multigeneration reproduction studies in animals adequate to show whether the color additive produces any adverse effects on reproduction. There being information at hand showing that such studies can be commenced promptly, it is reasonable to require that the final reports on teratological potential for color additives now provisionally listed in § 8.501 be filed with the Food and Drug Administration not later than October 1, 1972, and that the final reports on multigeneration reproduction studies be filed with FDA not later than July 1, 1973.

Any questions concerning teratogenic studies or reproduction studies may be taken up with the Food and Drug Administration pursuant to § 8.35(c) of the color additive procedural regulations (21 CFR 8.35(c)).

For a further extension of provisional listing beyond December 31, 1971, any person having the prescribed animal studies underway may file a request for a further extension with FDA. Such request shall be supported (1) by progress reports on the animal studies, and (2) by a statement estimating the date when a petition can be filed seeking a regulation under section 706 of the act. Current usage data showing the levels of use in specific foods or in classes of foods, the levels of use in specific drugs for internal use or in classes of internal drugs, and the levels of use in cosmetics subject to ingestion shall be submitted in support of such petition at the time it is filed.

The Commissioner may give consideration to the termination of a provisional listing of the color additives listed in paragraphs (a) and (b) of § 8.501 if (1) no request for an extension of the provisional listing is received prior to the date the provisional listing expires; (2) the request for extension is not adequately supported by the information requested; or (3) any report, be it a progress report or a final report, shows that the color additive is unsafe under its proposed conditions of use. The Commissioner may also give consideration, where the scientific data so indicate, to reducing the aggregate use of a color in a provisional listing by eliminating or restricting certain uses in accordance with the procedure in § 8.11 (21 CFR 8.11).

Data in response to this notice should be addressed to the Food and Drug Administration, Bureau of Foods, Office of Compliance, Division of Petitions Processing, 200 C Street SW., Washington, DC 20204.

Dated: September 7, 1971.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.71-13366 Filed 9-10-71;8:46 am]

[DESI 8530; Docket No. FDC-D-141; NDA Nos. 10-613 and 8-530]

WINTHROP PRODUCTS, INC., AND WINTHROP LABORATORIES

Alevaire; Notice of Withdrawal of Approval of New-Drug Applications

In an announcement published in the FEDERAL REGISTER of July 17, 1968 (33 F.R. 10227), Winthrop Products, Inc., holder of new-drug application No. 10-613 for Alevaire (tyloxapol 0.125 percent) and Winthrop Laboratories, Division of Sterling Drug, holder of new-drug application No. 8-530 for Alevaire (tyloxapol 0.125 percent), were notified of the National Academy of Sciences-National Research Council, Drug Efficacy Study Group's evaluation of the article as ineffective, and of the Food and Drug Administration's concurrence with the evaluation and its conclusions that there is a lack of substantial evidence that Alevaire will have the effect it purports and is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling. Accordingly, the Commissioner of Food and Drugs noted his intent to initiate action to withdraw approval of the new-drug applications for Alevaire, and invited holders of the NDA's to submit any pertinent data.

After the announcement, Winthrop met with representatives of the Food and Drug Administration on August 13, 1968, to present arguments and additional evidence in support of the claimed effectiveness of Alevaire. The arguments and data were evaluated, but failed to provide any evidence of effectiveness derived from adequate and well controlled clinical investigations. On December 6, 1969, there was, therefore, published in the FEDERAL REGISTER (34 F.R. 19389), a notice of opportunity for hearing in which the Commissioner of Food and Drugs proposed to issue an order under the provisions

of section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355 (e)) withdrawing approval of new-drug application Nos. 10–613 and 8–530 for Alevaire, and all amendments and supplements thereto, on the ground that there was a lack of substantial evidence to support the claims of effectiveness for the drug for the conditions for which it is prescribed, recommended, or suggested in the labeling.

Winthrop Products, Inc., holder of NDA No. 10–613; Winthrop Laboratories, Division of Sterling Drug Inc., holder of NDA No. 8–530; and Breon Laboratories, Inc., a firm marketing Alevaire in the United States, filed a written appearance and request for hearing on January 20, 1970.

Submitted with the request was a statement of grounds, including the medical documentation relied upon, arguments which contended that there was an unqualified right to a hearing, and the affidavits of six physicians and scientists attesting to the drug's effectiveness. Additional medical documentation was submitted by a letter dated May 7, 1970.

On June 5, 1970, in response to the May 8, 1970 FEDERAL REGISTER publication of procedural and interpretative regulations, a supplemental election for hearing was submitted, included in which, was further medical documentation and a reiteration of the argument and reasons for a hearing as stated in the initial request for hearing. On August 13, 1970, one final medical document was submitted as a supplement to the January 20, and June 5 filings, and on March 1, 1971, the affidavit of the Medical Director of Breon Laboratories was received.

This presentation, as well as the medical documentation reviewed by the NAS-NRC panel and the medical documentation contained in both NDA's have been considered. The Commissioner of Food and Drugs concludes that there is no genuine and substantial issue of fact requiring a hearing and that the legal arguments are insubstantial.

Reasons for withdrawal of approval—1. *The Drug.* Alevaire is a fixed combination aqueous solution of 0.125 percent tyloxapol, 2 percent sodium bicarbonate, and 5 percent glycerin.

It is recommended in the treatment of patients "with diseases and disorders of the lungs accompanied, or complicated, by excessive or thickened bronchopulmonary secretions," and is indicated also for persons having pulmonary diseases where "* * * the normal mechanism for elimination of secretions is diminished or absent * * * or depressed."

The rationale for Alevaire has been variously described. At the time of initial NDA approval, it was offered as a "mucolytic" detergent aerosol which exerted a liquefying effect on excessive or thickened mucus secretions, thereby aiding the patient in their expulsion. The rationale, as reflected in the labeling submitted for review by the NAS–NRC panel, is that the drug acts as a detergent aerosol facilitating the removal of the pulmonary secretions allowing for excretion by normal processes by lowering or reducing the surface and interfacial tensions and reducing their viscosity.

Alevaire is recommended for administration in an undiluted form by an aerosol nebulizer delivering a fine mist to the patient in an open tent, croup tent or incubator. Where short periods of therapy are indicated, 10 to 20 ml. are recommended to be administered by a face mask, positive pressure breathing machines, or oral or nasal spray apparatus.

2. *Clinical Evidence to Support the Claims of Effectiveness.* Petitioners have presented summaries of 19 published and unpublished reports, and have cited nine additional articles, described as establishing that Alevaire is effective for use, and, that contrary to the "clinical impression" of the NAS-NRC panel, clinical and other evidence establishes Alevaire to be more effective than water.

Of the 19 reports summarized, none may be classified as an adequate and well-controlled clinical investigation. Twelve of these reports involve nothing more than discussions of clinical impressions and observations concerning the use of Alevaire, in vitro experiments, or articles mainly devoted to a discussion of medical problems. These 12 reports are as follows: One consisted of a collection of case reports on 17 adults treated by several doctors, in which the authors state that "* * * this does not pretend to be a controlled study." Another was a report of an in vitro study of the viscosity of saliva, bronchiatic pus and amniotic fluid, together with statements of the author as to Alevaire's effectiveness based upon his clinical use of the drug. Another evaluated resuscitation of infants born by Cesarean section, and contained undocumented statements as to the usefulness of Alevaire in such treatment. Two additional reports were based or clinical impressions from use of the drug in a number of individual cases, and were testimonial in nature. Three reports consisted of discussions of the treatment of laryngitis in children, general pulmonary problems, and bronchopulmonary disorder, in which Alevaire was employed in treatment and is discussed only incidentally. Two of the articles were devoted to discussions and clinical impressions of aerosol therapy agents in general, and references to Alevaire again was generalized and consisted of undocumented clinical impressions. One report was of an in vitro experiment of the effect of the drug as a surface-active agent, and another, a study of Alevaire conducted on cats, an animal whose respiratory tract differs from that of man.

The seven remaining articles were reports of studies conducted with Alevaire. These, however, provide no substantial evidence of efficacy. These seven consisted of five completed and two preliminary studies, and each was deficient to varying degrees in meeting the criteria for adequate and well controlled clinical trials, as follows. In one, an unpublished preliminary study, the investigations saturated the incubators of newborn infants with Alevaire. The conclusion that the therapy was of value, however, was based on general clinical observations rather than documented results. In another incomplete and unpublished study, a crossover comparison between Alevaire and isotonic saline, the "Interim report" of the investigator was that it was his "impression" on the basis of "preliminary information" that Alevaire is more effective than saline in increasing volume of sputum.

In one published study, Alevaire was administered to 300 patients with varying pulmonary conditions, and the therapeutic response was measured by general physical condition after treatment, characteristics of the sputum, and changes in respiratory effect. There were no controls and the study yielded no meaningful data on therapeutic response. Similarly, another study of children with acute bronchitis is lacking in the criteria necessary for a controlled study by failing to indicate diagnostic criteria or patient selection, methods of observation, measurement of variables, quantitation of results, and information as to the substance which may have been used as a control. Of the three remaining studies, one is an unpublished single blind crossover comparison of the effectiveness of Alevaire with water which appeared to indicate that Alevaire significantly increased both sputum volume and weight. The study, however, failed to state the method of patient selection, and the diagnostic criteria for bronchial asthma and chronic bronchitis was not stated. Further, no assessment of subjective response, nor steps taken to minimize bias were included in the study, nor was there documentation of the levels and methods of blinding. Another study, an unpublished crossover study in which Alevaire was reported as more effective than saline or water, lacked the necessary criteria for an adequate and well-controlled clinical trial, as reflected in the report itself. The protocol for this study showed that unsuitable patient selection reflected variable disease conditions and as a consequence, the variability of sputum volume and retention qualities precluded uniform measurement of effectiveness. No assessment of the subjective response of the patients was stated, nor was there an assurance in the protocol or results of the comparability of the different test groups of pertinent variables. In addition, the levels and methods of blinding were not documented. Although the statistical evaluation purported to show that Alevaire is more effective than either water or saline, its validity is highly questionable since Alevaire was administered to only half the number of patients who received normal saline and water, and the use of Bronkometer aerosol which in itself has mucoevacuant properties, unduly complicates the spirometric test. Nor does

the data obtained contain adequate detail to permit trend analysis. Another published single blind study to evaluate the comparative efficacy of Alevaire and another mucoevacuant, ascumist, was conducted among 75 patients undergoing thoracic surgery. The results showed that there was no significant reduction in the viscosity of sputum with Alevaire, but that Alevaire did produce an increase of sputum volume. The investigator's statement that "both ascumist and Alevaire can increase 24-hour sputum volume" is not warranted and cannot be translated into evidence of Alevaire's effectiveness, since the study failed to provide meaningful controls in the form of water or of the drug's vehicle consisting of water, sodium bicarbonate and glycerin. Numerous other deficiencies in the design of the study cause it to fail to meet the criteria which constitute an adequate and well-controlled clinical study.

In addition to these 19 published and unpublished reports commented upon above, the citations to nine other articles were provided as evidence favorable to claims of the drug's effectiveness. No adequate and well-controlled studies, clinical or otherwise, were present. Of the nine articles, four consisted of clinical discussions of pulmonary conditions generally, two involved the concurrent use of Alevaire and other drugs, one was a study of inhalation therapy in dogs, one a preliminary report of an uncontrolled study, and one a testimonial article based on clinical impressions of Alevaire.

The Commissioner also has considered the medical documentation submitted by the petitioners and reviewed by the NAS-NRC panel, and to the materials contained in the NDA's. Again, no adequate and well-controlled clinical studies were found. Of the 21 articles reviewed and evaluated by the NAS-NRC panel, 10 were resubmitted and summarized in the Request for Hearing materials. They have been already discussed. Nine of the remaining 11 are discussions of techniques of aerosol therapy, clinical impressions or preliminary reports on Alevaire's use, or of pulmonary surface activity. In two of the articles, however, the author (Palmer) reported on two controlled clinical investigations in which the drug was compared in one with its vehicle (sodium bicarbonate, water, and glycerine), and in the other with a control solution, normal saline solution, and water. The results showed use of Alevaire to be of no advantage over the use of any of the control or comparison solution, including water.

The NDA's for Alevaire contain 33 studies or articles from the medical literature. These, too, consist only of methods and techniques of aerosol therapy, reports of animal studies, uses of the drug for conditions other than its recommended ones, clinical impressions of the drug, or in which Alevaire is mentioned only incidentally. A number were concerned with drugs other than Alevaire.

3. *Affidavits to Support the Claims of Effectiveness.* The affidavits of six physicians were submitted with the Request for Hearing. In each of them, the affiant argues that clinical experience has shown Alevaire to be both safe and effective for its recommended uses, and each raises the argument that the criteria for adequate and well-controlled clinical studies prescribed by the regulations is impossible to meet with respect to any study of Alevaire. Neither of these two arguments raises a substantial question.

Despite the expressed opinions that the drug is both safe and effective, in only three of the affidavits (Cohen, Miller, Beck) is anything more than general clinical experience relied upon to justify such a conclusion. And in the affidavits of Cohen, Miller, and Beck, their conclusions are based on general clinical impressions and upon uncontrolled studies each has conducted on Alevaire. These studies were among those submitted in support of the Request for Hearing, and inasmuch as none meet the criteria for an adequate and well-controlled clinical study, do not constitute a valid basis for their final conclusions. And, although the conduct of an adequate and well-controlled clinical investigation of the drug may be made more difficult by conditions peculiar to its recommended use and method of administration, no valid reasons for alteration of any of the criteria has been raised.

4. *Legal Arguments.* The petitioners have urged several legal arguments in connection with the issuance of the Notice of Opportunity for Hearing. Those objections directed to the validity of the regulations clarifying the nature of the evidence to be submitted, has been resolved in "Upjohn Co. v. Finch," 422 F. 2d 944 (C.A. 6, 1970); "Pharmaceutical Manufacturers Assn. v. Richardson," 318 F. Supp. 301 (D. Del., 1970); and "Pfizer v. Richardson," 434 F. 2d 536 (C.A. 2, 1970). The contention that this drug is not subject to the efficacy review because it was not covered by an effective NDA on the day preceding the effective date of the 1962 Drug Amendments, is insubstantial. All drugs that were covered by new-drug applications filed at any time between 1938 and 1962 are subject to the efficacy review under the 1962 Drug Amendments. Similarly, the claimed application of different standards of evaluation by the Food and Drug Administration between Alevaire and other drugs, has no merit. The documentation of this argument in the form of an affidavit of the Medical Director of Breon Laboratories, itself points out that the two drugs are of different composition and different modes or mechanisms of action.

Therefore, the Commissioner, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (section 505(e), 52 Stat. 1052, as amended; 21 U.S.C. 355(e)) and under authority delegated to him (21 CFR 2.120), finds that, on the basis of new information before him with respect to Alevaire, NDA No. 10-613 and NDA No. 8-530, evaluated together with the evidence available to him when the application was approved, there is a lack of substantial evidence that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling thereof.

For the foregoing reasons, approval of new-drug applications Nos. 10-613 and 8-530, and all amendments and supplements thereto, is withdrawn effective on the date of the publication of this document.

Dated: August 27, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-13365 Filed 9-10-71;8:45 am]

Office of the Secretary

HEALTH SERVICES AND MENTAL HEALTH ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

Part 3 (Health Services and Mental Health Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare (33 F.R. 15953, October 30, 1968 et seq.) is hereby amended with regard to section 3-B, Organization as follows:

Under the center head "National Center for Family Planning Services (3F00)" substitute the following text:

Plans, directs, coordinates, and serves as "lead agency" for the family planning activities of the Health Services and Mental Health Administration. Specifically: (1) Develops HSMHA policy on matters pertaining to family planning activities; (2) develops long-range (5-year) family planning program objectives and plans; (3) formulates guidelines governing the preparation of annual family planning programs and reviews those programs on behalf of the Administrator; (4) administers family planning project grant and contract activities; (5) administers extramural research and training activities, both domestic and abroad (through use of Public Law 83-480 funds), incidental to family planning activities of HSMHA; (6) coordinates through Regional Offices the provision of technical assistance in family planning to State and local health organizations and to interested private organizations and institutions; (7) serves as a national clearinghouse for family planning information and data; (8) coordinates family planning activities of HSMHA with those of other operating agencies of the Department, other departments and agencies, and interested private organizations and institutions; (9) provides support and assistance to the Deputy Assistant Secretary for Population Affairs in the development of overall DHEW family planning policy and priorities, and in preparing reports to the Congress with respect to family planning program objectives, program accomplishments, and future plans; and (10) provides technical assistance and consultation to governments of other countries and public and

private organizations involved in international family planning programs.

Office of the Director (3F01). (1) Plans, directs, administers, coordinates, and evaluates the program and management operations of the Center; (2) stimulates research and development activities; (3) provides national and international leadership in family planning services; (4) assists the Administrator, HSMHA and the Deputy Assistant Secretary of Population Affairs in the development and implementation of national priorities, objectives, and plans in the area of family planning; and (5) provides professional and technical assistance to Regional Office personnel on family planning matters.

Office of Resources Management (3F19). (1) Plans and conducts the administrative management affairs of the Center; (2) develops and implements a comprehensive grants and contracts management program for the Center; (3) recommends allocation or reallocation of grant funds to the Regions; (4) provides program guidance and information to the Office of Financial Management, HSMHA, for use in the operation of a financial management system for the Center, including the interpretation of program policy and budget formulation and execution; (5) participates in the preparation of program planning and budget data; (6) develops, presents, and implements the working budgets for the Center; (7) provides direction to the Center and Regional Office staffs in managing financial, personnel, and facilities resources to accomplish program goals; and (8) coordinates the development of program reports required by law to be submitted to the Congress.

Office of Program Planning and Evaluation (3F31). (1) Develops family planning service goals, priorities, and plans; (2) maintains liaison and coordinates Center program planning and evaluation activities with other HSMHA programs, other DHEW organizations, Regional Offices, and the Office of the Deputy Assistant Secretary for Population Affairs; (4) conducts special studies and analyses of program priorities and objectives; (5) evaluates programs and achievements of the Center in relation to objectives; (6) develops methods, techniques, and standards for and evaluates effectiveness of grantee and contractor operations in relation to objectives; (7) assists in developing criteria for the review and approval of project applications to assure that objectives will be met on a priority basis; and (8) plans, in conjunction with the Office of Resources Management and the HSMHA Assistant Administrator for Management, the use of resources to achieve objectives.

Division of Information and Education (3F33). (1) Serves as a national clearinghouse for family planning information and data; (2) develops and administers a program of public education to inform the general public, and tailored to obtain intelligent support and participation in the obtaining of family planning services by individuals and widely varied social groups comprising the service population; (3) assembles and distributes printed material, films, guides, and resource directories to Regional Offices for use in the education effort; (4) develops new materials (brochures, audiovisual aids, etc.), to meet the needs of special groups with sharply different mores, for use by contractors, grantees, and Regional Offices; (5) plans and supports workshops and conferences to promote the effective use of available materials and the latest information by government, grantee, contractor, and other private or public groups concerned with public information and education in support of the program; (6) keeps informed of and communicates information to participating organizations as to new developments generated by the scientific community with regard to family planning; (7) works with television and radio stations and networks, the press, and other information and education media to obtain support and participation in the education effort; and (8) responds to inquiries from the lay public, provides technical assistance in preparing congressional presentations, and prepares speeches, reports, interpretive documents, press releases, and other materials concerning the NCFPS program.

Division of Services-Delivery Research (3F41). (1) Conducts services-delivery research into key areas related to, and having an impact upon, the delivery of family planning services; (2) conducts and/or supports extensive intra- or extramural studies designed to furnish Central and Regional Office staff with specific definitive answers to such operational problems as: (a) How to increase patient retention rates and (b) how to increase the numbers of patients who utilize family planning grantee clinics; (3) formulates and develops operating methods, techniques, and procedures for incorporating answers into existing and future family planning programs; (4) assists in the development, in conjunction with the Office of the Director, of international services-delivery research projects and evaluates the data generated by these studies; (5) develops methods for analyzing the progress and effectiveness of NCFPS services-delivery research programs with accompanying record keeping and control systems; and (6) interprets and recommends dissemination of services-delivery research results to ensure that current, scientifically factual information is available for use in the planning, operation, and evaluation of family planning programs.

Division of Training (3F51). (1) Serves as the training arm for the National Center for Family Planning Services to assure maximum effectiveness of headquarters, Regional Office, contractor, and grantee staffs in the execution of family planning service programs; (2) identifies training needs, develops training programs directly and through grantee and contractor assistance, and conducts necessary training through its own resources, Regional Offices, and through grantee and contractor facilities to improve competence of staffs of participating organizations; (3) provides guidance in training program development and reviews Regional Office training plans and efforts; and (4) adapts training programs to meet varying needs.

Division of Field Operations (3F61). (1) Provides technical advice and assistance to Regional Offices in the handling of family planning services project grants, including such matters as operating procedures, policies, policy interpretations, guidelines, technical assistance to grantees and prospective grantees on any aspect of grant applications or operations after grants are made; (2) keeps informed on family planning grants activities of the respective regions to identify incipient problems and devise solutions before critical incidents occur; (3) in conjunction with Regional Offices, furthers coordination of joint efforts of participating organizations (including Federal and local government agencies, grantees, contractors, and otherwise involved individuals, groups, associations, and companies), through meetings and conferences to explain the intent, purpose, and philosophy of the program and facilitate cooperative working relationships; (4) recommends allocation or reallocation of grant funds to regions; (5) on request of Regional Offices, assists prospective grantees in development of grant applications to assure inclusion of medical and social features needed and desirable for a particular service population; (6) keeps other elements of NCFPS headquarters informed of the current status of grantee development, progress, and problem areas; and (7) provides a focal point for coordination of communications with and visits to Regional Offices by headquarters NCFPS staff.

Dated: September 6, 1971.

ELLIOT L. RICHARDSON,
Secretary.

[FR Doc.71-13400 Filed 9-10-71;8:48 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D-71-126]

REGIONAL ADMINISTRATORS, ET AL.

Redelegation of Authority

SECTION A. *Authority redelegated.* Each Regional Administrator, Deputy Regional Administrator, Assistant Regional Administrator for Housing Management, and Insurance Advisor of the Department of Housing and Urban Development is authorized, with respect to the programs listed below, to approve non-Federal insurance contracts and to execute endorsements on behalf of the Department of Housing and Urban Development on insurance checks on which the United States of America, Department of Housing and Urban Development, or any predecessor agency of the Department of Housing and Urban Development, is a joint payee:

1. Slum Clearance and Urban Renewal Program under title I of the Housing Act of 1949 (42 U.S.C. 1450–1468), and section 312 of the Housing Act of 1954 (42 U.S.C. 1450 note).

2. Program of Loans for Housing of the Elderly or Handicapped under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q).

3. College Housing Program under title IV of the Housing Act of 1950 (12 U.S.C. 1749–1749c).

4. Low-Rent Public Housing Program under the U.S. Housing Act of 1937 (42 U.S.C. 1401 et seq.).

(Delegation of the Secretary, 35 F.R. 15025, Sept. 26, 1970, and authorities set forth therein)

Effective date. This redelegation of authority is effective July 1, 1971.

NORMAN V. WATSON,
Assistant Secretary for Housing Management.

[FR Doc.71-13384 Filed 9-10-71;8:47 am]

ATOMIC ENERGY COMMISSION

[Dockets Nos. 50-348; 50-364]

ALABAMA POWER CO.

Establishment of Atomic Safety and Licensing Board and Establishment of Third Member of Appeal Board

On July 21, 1971, the Commission published in the FEDERAL REGISTER (36 F.R. 13699) a notice of hearing concerning the application for construction permits for two pressurized water nuclear reactors, filed by the Alabama Power Co. (Joseph M. Farley Nuclear Plant, Units 1 and 2). That notice indicated the Licensing Board for this proceeding would be designated at a later date, and that notice of its membership would be published in the FEDERAL REGISTER.

Pursuant to the Atomic Energy Act of 1954, as amended, the regulations in Title 10, Code of Federal Regulations, Part 2 (Rules of Practice) and the notice of hearing referred to above, notice is hereby given that the Licensing Board in this proceeding will consist of Dr. Harry Foreman, Minneapolis, Minn.; Dr. Hugh C. Paxton, Los Alamos, N. Mex.; and Mr. Walter T. Skallerup, Jr., Washington, D.C., Chairman. Dr. Ira F. Zartman, Annapolis, Md., has been designated as a technically qualified alternate, and Mr. James R. Yore, Washinton, D.C., has been designated as an alternate qualified in the conduct of administrative proceedings.

As provided in the notice of hearing, the date and place of a prehearing conference will be set by the Board, and the date and place of the hearing will be set at or after the prehearing conference.

The notice of hearing also indicated the Commission would later designate the third member of the Atomic Safety and Licensing Appeal Board, to which it had delegated its authority and review function which would otherwise be exercised or performed by it in this proceeding. Notice is hereby given that the Commission has now designated Dr. Lawrence R. Quarles, Dean of the School of Engineering and Applied Science, the University of Virginia, as the third member of the Atomic Safety and Licensing Appeal Board.

Dated at Germantown, Md., this 3d day of September 1971.

UNITED STATES ATOMIC ENERGY COMMISSION,
W. B. McCOOL,
Secretary of the Commission.

[FR Doc.71-13361 Filed 9-10-71;8:45 am]

[Docket No. 50-271]

VERMONT YANKEE NUCLEAR POWER CORP.

Order Reconvening Hearing

In the matter of Vermont Yankee Nuclear Power Corp. (Vermont Yankee Nuclear Power Station).

At the evidentiary hearing in this proceeding held on August 11, 1971, consideration was given to reconvening the hearing on either October 11 or 12 in Brattleboro, depending upon holiday availability of space. It has been determined that October 12 is the suitable date.

Wherefore, it is ordered, In accordance with the Atomic Energy Act, as amended, and the rules of practice of the Commission, that the evidentiary hearings in this proceeding shall resume and shall reconvene at 9:30 a.m. on Tuesday, October 12, 1971, in the Auditorium of the School for International Training, Kipling Road, Brattleboro, Vt.

Issued: September 7, 1971, Germantown, Md.

ATOMIC SAFETY AND LICENSING BOARD,
SAMUEL W. JENSCH,
Chairman.

[FR Doc.71-13362 Filed 9-10-71;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 22628; Order 71-9-4]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Fare Matters

Issued under delegated authority September 1, 1971.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of Joint Conference 2-3 of the International Air Transport Association (IATA), and adopted by mail vote. The agreement has been assigned the above-designated CAB agreement number.

The agreement would amend an existing resolution governing group inclusive tour travel from the Far East to points in Europe/Africa/Middle East by liberalizing the requirement that sleeping accommodations be provided for the total duration of the trip so as to permit such to be provided on means of public transportation. The Board's interest in the agreement is limited to the extent that the resolution would have application to / from Guam / Okinawa / American Samoa.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14, it is not found, on a tentative basis, that Resolution JT23 (Mail 281) 081n, which is incorporated in Agreement CAB 22657, is adverse to the public interest or in violation of the Act.

Accordingly, it is ordered, That:

Action on Agreement CAB 22657 be and hereby is deferred with a view toward eventual approval.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may, within 10 days after the date of service of this order, file such petitions in support of or in opposition to our proposed action herein.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-13405 Filed 9-10-71;8:53 am]

[Dockets Nos. 22628, 20993; Order 71-9-11]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Fare and Rate Matters

Issued under delegated authority, September 2, 1971.

Agreements have been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of Traffic Conference 2 of the International Air Transport Association (IATA). The agreements, which were adopted by mail votes, have been assigned the above-designated CAB agreement numbers.

The agreements would increase first-class, economy and creative fares, as well as general cargo rates, applying between Bulawayo and Lourenco Marques.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14:

1. It is not found that Resolution 200 (Mail 114) 072b, which is incorporated in Agreement CAB 22658, R-3, affects air transportation within the meaning of the act;

2. To the extent that the following resolutions, which are incorporated in the agreement indicated, would indirectly affect air transportation as defined by the act, it is found, on a tentative basis, that increased charges provided therein are inconsistent with Executive

Order 11615, issued August 15, 1971, by the President and Board Order 71–8–71, dated August 17, 1971, implementing the Executive Order:

Agreement CAB	*IATA resolutions*
22658, R–1	200(Mail 114)052.
22658, R–2	200(Mail 114)062.
22659	200(Mail 115)552

3. Except as stipulated in finding paragraph 2 above, it is not found that the resolutions set forth therein, which are incorporated in Agreements CAB 22658, R–1 and R–2, and CAB 22659, and which do not directly affect air transportation within the meaning of the Act, are adverse to the public interest or in violation of the Act.

Accordingly, it is ordered; That:

1. Jurisdiction be and hereby is disclaimed with respect to Agreement CAB 22658, R–3;

2. Action on Agreements CAB 22658, R–1 and R–2, and CAB 22659, insofar as increased charges provided therein would apply to the construction of through fares and rates in air transportation, is deferred with a view toward disapproval consistent with Order 71–8–78 of August 17, 1971; and

3. Except as indicated in ordering paragraph 2 above, Agreements CAB 22658, R–1 and R–2, and CAB 22659 be and hereby are approved.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may, within 10 days after the date of service of this order, file such petitions in support of or in opposition to our proposed action herein.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71–13406 Filed 9–10–71;8:53 am]

[Docket No. 22628; Order 71–9–30]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Fare Matters

Issued under delegated authority September 7, 1971.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of Traffic Conference 2 of the International Air Transport Association (IATA) and adopted by mail vote. The agreement has been assigned the above-designated CAB agreement number.

The agreement would increase normal first-class and economy fares, as well as special creative fares, applying between points in Switzerland/Austria and other points throughout Europe.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14:

1. It is not found that Resolutions 200 (Mail 109)046a and 200(Mail 109)072g, which are incorporated in Agreement CAB 22630, R–1 and R–3, affect air transportation within the meaning of the act; and

2. To the extent that Resolutions 200 (Mail 109)052 and 200(Mail 109)062, which are incorporated in Agreement CAB 22630, R–2, would indirectly affect air transportation as defined by the Act, it is found, on a tentative basis, that increased charges provided therein are inconsistent with Executive Order 11615 issued August 15, 1971, by the President and Board Order 71–8–78, dated August 17, 1971, implementing said Executive order; and

3. Except as stipulated in finding paragraph 2 above, it is not found that Resolutions 200(Mail 109)052 and 200(Mail 109)062, which are incorporated in Agreement CAB 22630, R–2 and which do not directly affect air transportation within the meaning of the Act, are adverse to the public interest or in violation of the Act.

Accordingly, it is ordered, That:

1. Jurisdiction be and hereby is disclaimed with respect to Agreement CAB 22630, R–1 and R–3;

2. Action on Agreement CAB 22630, R–2, insofar as increased charges provided therein would apply to the construction of through fares in air transportation, is deferred with a view toward disapproval consistent with Order 71–8–78 of August 17, 1971.

3. Except as indicated in ordering paragraph 2 above, Agreement CAB 22630, R–2, be and hereby is approved.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may, within 10 days after the date of service of this order, file such petitions in support of or in opposition to our proposed action herein.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71–13407 Filed 9–10–71;8:53 am]

[Docket No. 22518; Order 71–9–29]

OWENSBORO AVIATION

Order To Show Cause Regarding Establishment of Service Mail Rate

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 7th day of September 1971.

On June 4, 1971, the Postmaster General petitioned the Board to establish for the above-captioned air taxi operator, a zero final service mail rate for the transportation of mail by aircraft between Owensboro, Ky., and Evansville, Ind.

Owensboro Aviation is currently transporting mail between Evansville, Ind., and Chicago, Ill., via Indianapolis, at a rate of $1.12 per great circle mile as established in Corrected Order 70–10–66, issued October 13, 1970. This rate was calculated to include the costs of the "deadhead" flights between Evansville, Ind., and Owensboro's base of operations at Owensboro, Ky., which are the flights that we are concerned with in this order.

Since no certificated air service is presently available between Owensboro and Evansville, a modest amount of preferential mail must be transported daily between the two cities by a highway contractor, whose operations are based primarily on the need for bulk mail transportation and not on the need of preferential mail for rapid delivery.

Owensboro Aviation has offered to carry this mail at a zero rate on its existing "deadhead" flights to and from Evansville, weather permitting. While it is obviously unusual to propose a zero service mail rate, under the circumstances herein involved, this action is deemed desirable for two reasons. First, it is necessary to fix a rate for the Owensboro-Evansville flights since the Postmaster General will tender mail for carriage on those flights. Second, since the carrier's operational costs for this service are already being met by the rate for services between Evansville and Chicago, and, since the Air Board at Owensboro has agreed that on this basis it will not assess any additional airport fees for this service, all of the carrier's costs incurred in carrying preferential mail between Owensboro and Evansville are being met under the existing rate for services between Evansville and Chicago. Under all these circumstances, the Board finds it in the public interest to fix and determine a zero rate as the fair and reasonable rate of compensation to be paid to Owensboro Aviation by the Postmaster General for the transportation of mail by aircraft between Owensboro and Evansville.

Therefore, upon consideration of the Postmaster General's petition on behalf of Owensboro Aviation and other matters officially noticed, it is proposed to issue an order [1] to include the following findings and conclusions:

The fair and reasonable final service mail rate to be paid to Owensboro Aviation by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, shall be 0.00 cents per great circle aircraft mile between Owensboro, Ky., and Evansville, Ind.[2]

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR, Part 302, and 14 CFR 385.16(f),

It is ordered, That:

1. L. S. Cox, Jr., doing business as Owensboro Aviation, the Postmaster General, Allegheny Airlines, Inc., American Airlines, Inc., Delta Air Lines, Inc.,

[1] As this order to show cause is not a final action, it is not regarded as subject to the review provisions of 14 CFR, Part 385. These provisions will apply to final action taken by the staff under authority delegated in § 385.16(g).

[2] This rate shall remain in effect only as long as the rate for services betwen Evansville, Ind., and Chicago, Ill., established in Corrected Order 70–10–66, issued Oct. 13, 1970, remains in effect.

Eastern Air Lines, Inc., Ozark Air Lines, Inc., and Trans World Airlines, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to L. S. Cox, Jr., doing business as Owensboro Aviation;

2. Further procedures herein shall be in accordance with 14 CFR, Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed herein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served on L. S. Cox, Jr., doing business as Owensboro Aviation, the Postmaster General, Allegheny Airlines, Inc., American Airlines, Inc., Delta Air Lines, Inc., Eastern Air Lines, Inc., Ozark Air Lines, Inc., and Trans World Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-13408 Filed 9-10-71;8:53 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 17695; FCC 71-892]

JOHN C. ROACH

Memorandum Opinion and Order Enlarging Issues

In regard application of John C. Roach, Calhoun, Ga., for construction permit; Docket No. 17695, File No. BP-16665.

1. The Commission has before it for consideration: (a) A petition for leave to amend application, filed May 24, 1971, by John C. Roach (Roach); and (b) comments on the petition filed June 3, 1971, by the Chief, Broadcast Bureau (Bureau). Also under consideration are: (a) a motion for clarification or, in the alternative, to enlarge issues filed April 19, 1971, by Gordon County Broadcasting Co. (Gordon County);[1] (b) comments on the motion filed May 4, 1971, by the Bureau; (c) opposition to the motion filed May 4, 1971, by Roach; and (d) a reply filed May 14, 1971, by Gordon County.[2]

2. In our Decision, 20 FCC 2d 255 (1969), reconsideration denied, 21 FCC 2d 893 (1970), in this proceeding, we denied the application of Gordon County for renewal of license of standard broadcast Station WCGA at Calhoun, Ga., and the application of Roach for a construction permit for a new standard broadcast station at Calhoun. Both Roach and Gordon County filed appeals of that Decision with the U.S. Court of Appeals for the District of Columbia Circuit. Following adoption of the Primer on Ascertainment of Community Problems by Broadcast Applicants, 27 FCC 2d 650, released February 23, 1971, however, Roach filed a petition requesting that the Commission seek remand so that pursuant to paragraph 79 of the Primer he could file an amendment to his application providing a further showing on ascertainment of community problems. The petition was granted in part, 27 FCC 2d 1006, released March 4, 1971, and remand of the proceeding insofar as it involved Roach was secured.[3]

3. During the original hearing in this proceeding, Roach claimed that he had contacted 19 community leaders in ascertaining community needs. Gordon County subsequently took depositions of 13 of those leaders; some of them denied even knowing Roach and all but one of the remainder denied any contact with him concerning ascertainment of community needs. In view of these circumstances, Hearing Examiner Millard F. French concluded that Roach had misrepresented facts regarding his program contacts and proposed to deny Roach's application, 20 FCC 2d 260 (1968). In lieu of exceptions to the initial decision, Roach requested us to reopen the record and to enlarge the issues for a full exploration of the matters relating to the alleged misrepresentations. However, in our decision, supra, having found that Roach had failed to ascertain the needs of his specified community, we deemed it unnecessary to consider any questions concerning the alleged misrepresentations.

4. Now that we have obtained a remand of this proceeding insofar as it involves Roach's application to enable Roach to make a further showing of his efforts to ascertain community needs, the questions relating to the alleged misrepresentations are ripe for our consideration. Roach contends that these questions are based on evidence introduced into this record in 1968; that further delays will merely provide additional operating time for Gordon County's existing facility; that, in view of the "genuine confusion" surrounding the Commission's requirements for ascertainment of community needs, it is reasonable to believe that the Examiner's findings were based on the testimony of a confused applicant rather than of one who was intentionally misrepresenting facts; and, thus, that no further action is required on this matter.

5. Notwithstanding Roach's contentions, we believe that the most suitable approach under the circumstances in this proceeding would be to permit Roach to make a full evidentiary showing of all the circumstances, including any mitigating factors, concerning the alleged misrepresentations. Accordingly, we shall reopen this record and remand Roach's application for a further hearing to determine whether Roach misrepresented material facts and, if so, whether Roach possesses the requisite qualifications to be a licensee of this Commission.[4] In view of Gordon County's prior participation in this matter, it is clear that Gordon County will be able to assist the Commission in the determination of the issues in question and that Gordon County should be made a party for that purpose under § 1.223(b) of our rules. At the same time, since a further hearing is required, the orderly and expeditious disposition of Roach's petition for leave to amend and the Bureau's comments thereon will best be effected by referral of these pleadings to the presiding Examiner for his initial consideration in conjunction with the preparation of a supplemental initial decision covering these matters.

6. *Accordingly, it is ordered,* That this proceeding, insofar as it involves the application of John C. Roach is reopened and remanded to the presiding Hearing Examiner for further consideration consistent with this Memorandum Opinion and Order and for preparation of a supplemental initial decision.

7. *It is further ordered,* That the petition for leave to amend application filed

[1] The Commission's action denying Gordon County's application for reasons entirely unrelated to the present matter was affirmed by the U.S. Court of Appeals for the District of Columbia Circuit on June 29, 1971, Case No. 24,093. Thus, Gordon County is no longer entitled to consideration as a party applicant. However, for the reasons set forth herein, we shall make Gordon County a party to this proceeding on our own motion.

[2] These latter pleadings relating to Gordon County's request were originally directed to the Review Board, but they were subsequently informally referred to the Commission for consideration pursuant to Florida-Georgia Television Company, Inc., 12 FCC 2d 332 (1968).

[3] A petition of Gordon County requesting that the Commission seek remand of its application for a different reason than that specified by Roach was denied, 28 FCC 2d 333, released Mar. 17, 1971, and 29 FCC 2d 518, released May 24, 1971. As noted in footnote 1, supra, the Commission's decision denying Gordon County's application has been affirmed by the Court of Appeals. Thus, this proceeding is presently limited to matters concerning Roach's application.

[4] In the light of this determination, on our own motion, we shall dismiss Gordon County's motion for clarification or, in the alternative, to enlarge issues as moot.

by John C. Roach on May 24, 1971, and the Broadcast Bureau's comments thereon are referred to the presiding Hearing Examiner for initial consideration.

8. *It is further ordered*, That, on the Commission's own motion:

(a) The issues in this proceeding are enlarged to include the following:

To determine whether John C. Roach misrepresented material facts in testimony and exhibits introduced at hearing in this proceeding.

To determine in the light of the evidence adduced pursuant to the foregoing issue whether John C. Roach possesses the requisite qualifications to be a licensee of the Commission.

(b) The burden of proceeding with the introduction of evidence and of proof under the issues added herein shall be on John C. Roach.

9. *It is further ordered*, That the motion for clarification or, in the alternative, to enlarge issues filed April 19, 1971, by Gordon County Broadcasting Co., is dismissed.

10. *It is further ordered*, That Gordon County Broadcasting Co. is made a party and shall have the right to appear as such at the further hearing ordered herein.

Adopted: September 1, 1971.

Released: September 7, 1971.

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

[FR Doc.71-13397 Filed 9-10-71;8:48 am]

FEDERAL MARITIME COMMISSION

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by section 11(p)(1) of the Federal Water Pollution Control Act, as amended, and, accordingly, have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46 CFR.

Certificate No.	*Owner/operator and vessels*
01035	Ove Skou: Dagny Skou.
01854	Southern Towing Co.: SS 2021.
02330	Oriental Shipping Corp.: Midas Prince.
02374	Minoutis Shipping Ltd. of Nicosia: Minoutai.
02384	Kristiansands Tankrederi A/S, A/S Kristiansands Tankrederi II, Aksjeselskapet Avant and Aksjeselskapet Skjoldheim: Polyscandia.
02395	Astrocrecido Compania Naviera S.A.: Aegean.
02477	American Dredging Co.: SE-104. SE-103. S-102. S-101.
02499	Union Oil Co. of California: Sansinea II.
02858	Intermarine, Inc. Liechtenstein.
02868	Trader Navigation Co., Ltd.: Vancouver Trader.
02982	The Shipping Corp. of India Ltd.: Vishva Darshan.
03044	Bouchard Transportation Co., Inc.: B. No. 105. B. No. 85.
03420	Dainichi Kaiun Kabushiki Kaisha: Nichibu Maru.
03441	Japan Line K.K.: Japan Olive. Japan Poplar.
03460	Mibae Shosen Kabushiki Kaisha: Atsuta Maru.
03469	Nihon Kaisho Kabushiki Kaisha: Awajisan Maru.
03505	Showa Yusen Kabushiki Kaisha: Arita Maru. Onomichi Maru.
03506	Taiheiyo Kaiun K.K.: Soyo Maru.
03508	Taiyo Gyogyo K.K.: Tenyo Maru.
03521	Tokushima Kisen K.K.: Tokusei Maru.
03526	Uwajima Shosen Co., Ltd.: Shinshu Maru.
03530	Yashima Kaiun K.K.: Sakurashim Maru.
03643	Ray Navigation Ltd.: Nancy Michaels.
03968	Zim Israel Navigation Co., Ltd.: Sahar.
03971	The Korea Shipping Corp., Ltd.: Korean Challenger. Korean Winner.
04004	Koninklijke Java-China-Paketvaart Lijnen N.V.: Straat Kobe.
04061	The Sanko (Hong Kong) Ltd.: Golden Tulip. Golden Lotus. Asia Culture.
04227	Kahn's Scheepvaart & Handelmaatschappij N.V.: Stellanova.
04269	Vronca Compania Naviera S.A.: Kyra Katina.
04270	Industrias Compania Naviera S.A.: Calliopi.
04449	China Merchants Steam Navigation Co., Ltd.: Hai Chuan.
04625	American Commercial Lines, Inc.: Bill Elmer.
04662	Atlantic Sugar Refineries Co., Ltd.: Atlantic Hawke.
04703	Yokkaichi Gyogyo Kabushiki Kaisha: Chiyo Maru No. 25.
04880	Oljekonsumenternas Forbund: Okland. Oktania. Oklahoma.
05368	Kyowa Kaiun Kabushiki Kaisha: Wakashio Maru No. 30.
05379	River Lines Co.: El Dorado. Shasta.
05753	Veb Deutfracht Internationale Befrachtung und Reederei: John Brinckman. Fritz Reuter.
05763	Towa Senpaku K.K.: Kokyo Maru.
06261	Puerto Rico Sun Oil Co.: Caribe Sun. Island Sun.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-13401 Filed 9-10-71;8:48 am]

[Independent Ocean Freight Forwarder License 94]

FOREIGN SHIPPING SERVICE COMPANY, INC.

Order of Revocation

On August 11, 1971, the Commission received notification from Joseph Shelala, President, Foreign Shipping Service Co., Inc., 52 Broadway, New York, NY, advising that the firm is voluntarily surrendering its FMC License No. 94.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised) section 7.04(f) (dated Sept. 29, 1970);

It is ordered, That the Independent Ocean Freight Forwarder License No. 94 of Foreign Shipping Service Co., Inc., be and is hereby revoked effective August 11, 1971, without prejudice to reapply for a license at a later date.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served upon Foreign Shipping Service Co., Inc.

AARON W. REESE,
Managing Director.

[FR Doc.71-13402, Filed 9-10-71;8:48 am]

FEDERAL POWER COMMISSION

[Docket No. RP72-30]

EASTERN SHORE NATURAL GAS CO.

Notice of Proposed Increase in Rates and Charges

SEPTEMBER 9, 1971.

Take notice that on August 25, 1971, Eastern Shore Natural Gas Co. (Eastern Shore) tendered for filing changes in its FPC Gas Tariff, Original Volume No. 1 to increase the commodity charge in its Rate Schedules CD-1, CD-E, G-1, E-1, I-1, and PS-1 by 1.2 cents per Mcf. Eastern Shore states that the increase corresponds to and tracks the increase in rate of its supplier, Transcontinental Gas Pipe Line Corp. which is proposed to be effective as of September 19, 1971. Eastern Shore requests waiver of the 30-day-notice requirement so as to permit its filing to become effective concurrently with that of its supplier. Copies thereof were served upon the company's customers and interested State commissions.

Any person desiring to be heard or to make protest with respect to said filing should on or before September 13, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with

[1] Commissioner Johnson absent.

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 serve to make protestants parties to the proceeding. Persons wishing to become parties or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The tender is on file with the Commission and available for public inspection.

Any order or orders issued in this proceeding will be subject to the Commission's Statement of Policy Implementing the Economic Stabilization Act of 1970 (Public Law 91-379, 84 Stat. 799, as amended by Public Law 92-15, 85 Stat. 38) and Executive Order No. 11615, including such amendments as the Commission may require.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-13493 Filed 9-10-71;8:54 am]

[Docket No. RI72-63]

CONTINENTAL OIL CO.

Order Providing for Hearing on and Suspension of Proposed Change in Rate, and Allowing Rate Change to Become Effective Subject to Refund

SEPTEMBER 1, 1971.

Respondent has filed a proposed change in rate and charge for the jurisdictional sale of natural gas, as set forth in appendix A hereof.

The proposed changed rate and charge may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon a hearing regarding the lawfulness of the proposed change, and that the supplement herein be suspended and its use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, a public hearing shall be held concerning the lawfulness of the proposed change.

(B) Pending hearing and decision thereon, the rate supplement herein is suspended and its use deferred until date shown in the "Date Suspended Until" column. This supplement shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the Respondent or by the Commission. Respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplement, nor the rate schedule sought to be altered, shall be changed until disposition of this proceeding or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf*		Rate in effect subject to refund in docket No.
									Rate in effect	Proposed increased rate	
RI72-63	Continental Oil Co.	220	9	Lone Star Gas Co. (Doyle Field, Stephens County) (Oklahoma Other Area).	$4,248	8-2-71		10-3-71	15.16	19.16	RI71-1049.

*The pressure base is 14.65 p.s.i.a.

Continental's proposed increased rate and charge exceeds the applicable area price level for increased rates as set forth in the Commission's Statement of General Policy No. 61-1, as amended (18 CFR § 2.56).

This order is subject to our Statement of Policy Implementing the Economic Stabilization Act of 1970 (Public Law 91-379), 84 Stat. 799, as amended by Public Law 92-15, 85 Stat. 38) and Executive Order No. 11615, including such amendments as the Commission may require.

[FR Doc.71-13334 Filed 9-10-71;8:45 am]

[Docket No. CI68-676, etc.]

MOBIL OIL CORP. ET AL.

Notice of Applications for Certificates, Abandonment of Service and Petitions to Amend Certificates [1]

SEPTEMBER 1, 1971.

Take notice that each of the applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before September 27, 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.

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 all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
CI68-676..... D 8-19-71	Mobil Oil Corp., Post Office Box 1774, Houston, TX 77001.	El Paso Natural Gas Co., Flora Vista Field, San Juan County, N. Mex.	Assigned	
CI72-79..... A 7-28-71 [1]	Forest Oil Corp., 1300 National Bank of Commerce Bldg., San Antonio, Tex. 78205.	Transwestern Pipeline Co., N½ sec. 28, T. 6 S., R. 27 E., Chaves County, N. Mex.	24.5	14.73
CI72-80..... (CI64-559) F 6-4-71	Miles Kimball Co. (successor to Marchin Oil Ltd.), 2100 First City National Bank Bldg., Houston, Tex. 77002.	Arkansas Louisiana Gas Co., Hodge Field, Jackson Parish, La.	15.0	15.025
CI72-104..... B 8-16-71	Et Al, Inc. (Operator), et al., 119 Cameron Bldg., Oklahoma City, Okla. 73106.	Panhandle Eastern Pipe Line Co., Freemyer Field, Kingman County, Kans.	Depleted	
CI72-105..... B 8-13-71	Ernest Wilson, 738 East Main St., Clarksburg, WV 26301.	Pennzoil United, Inc., Minnie Swadley Lease, Murphy District, Ritchie County, W. Va.	Depleted	
CI72-106..... A 8-17-71	Exchange Oil & Gas Corp., 1010 Common St., 16th Floor, New Orleans, LA 70112.	Transcontinental Gas Pipe Line Corp., East Lake Decade Field, Terrebonne Parish, La.	28.0	15.025
CI72-107..... A 8-18-71	Texaco, Inc., Post Office Box 430, Bellaire, TX 77401.	United Gas Pipe Line Co., Van Field, Van Zandt County, Tex.	20.0	14.65
CI72-108..... A 8-19-71	Gulf Oil Corp., Post Office Box 1589, Tulsa, OK 74102.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., South Marsh Island Block 29, Vermilion Block 191 Field, Vermilion Area and South Marsh Island Area, Offshore Louisiana.	[2] 28.63	15.025
CI72-109..... (G-5123) F 8-19-71	Texas Oil & Gas Corp. (successor to Sun Oil Co. (Operator), et al.), Fidelity Union Tower Bldg., Dallas, Tex. 75201.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., Placedo Field, Victoria County, Tex.	[3] 19.0	14.65
CI72-110..... B 8-20-71	Foster Petroleum Corp., Post Office Box 729, Bartlesville, OK 74003.	Oklahoma Natural Gas Gathering Corp., Ringwood Field, Major County, Okla.	Uneconomical.....	
CI72-111..... A 8-20-71	Gulf Oil Corp., Post Office Box 1589, Tulsa, OK 74102.	Transcontinental Gas Pipe Line Corp., East Lake Decade Field, Terrebonne Parish, La.	28.0	15.025

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

[1] Application previously noticed Aug. 10, 1971, in G-4021 et al., at a rate of 27 cents per Mcf. By letter filed Aug. 18, 1971, applicant amended its application to reflect a rate of 24.5 cents per Mcf in lieu of 27 cents, for a permanent certificate.
[2] Subject to upward and downward B.t.u. adjustment.
[3] Rate in effect subject to refund in Docket No. R171-205.

[FR Doc.71-13333 Filed 9-10-71;8:45 am]

[Docket No. CS72-147, etc.]

HELEN F. SPENCER, ET AL.

Notice of Applications for "Small Producer" Certificates [1]

SEPTEMBER 2, 1971.

Take notice that each of the applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before September 30, 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.

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 all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No.	Date filed	Name of applicant
CS72-147.....	8-19-71	Helen F. Spencer, Post Office Box 11318, Kansas City, MO 64112.
CS72-148.....	8-19-71	Bravo Oil Co., 913 Franklin Ave., Houston, TX 77002.
CS72-149.....	8-19-71	Whitaker Petroleum, 604 Johnson Bldg., Shreveport, La., 71102.
CS72-150.....	8-19-71	Meyers-Lasher, Inc., 2100 First City National Bank Bldg., Houston, Tex. 77002.
CS72-151.....	8-19-71	Braden-Deem, Inc., 200 East 1st St., Wichita, KS 67202.
CS72-152.....	8-20-71	Mainland Oil Co., 3700 First National Bank Bldg., Dallas, Tex. 75202.
CS72-153.....	8-20-71	Hood Goldsberry, 604 Johnson Bldg., Shreveport, La. 71101.
CS72-154.....	8-20-71	Lionel E. Gilly, 613 Meadows Bldg., Dallas, Tex. 75206.
CS72-155.....	8-20-71	Douglas Whitaker, 604 Johnson Bldg., Shreveport, La. 71101.
CS72-156.....	8-20-71	Myron A. Smith, 702 Fort Worth National Bank Bldg., Fort Worth, Tex. 76102.
CS72-157.....	8-23-71	Arapahoe Gas Ltd., 3333 South Bannock St., Suite 640, Englewood, CO 80110.
CS72-158.....	8-23-71	L. B. Jackson Co. (Operator) et al., 4609 East 31st St., Tulsa, OK 74135.
CS72-159.....	8-23-71	W. R. Dean, Post Office Box 1476, Victoria, TX 77901.
CS72-160.....	8-23-71	Robert L. Baker, Post Office Box 1476, Victoria, TX 77901.
CS72-161.....	8-23-71	John C. O'Leary, Post Office Box 1476, Victoria, TX 77901.
CS72-162.....	8-23-71	Cenard Oil & Gas Co., Nafco Oil & Gas Inc., and Murphy Oil Co. of Oklahoma, Inc., 400 Expressway Tower, Dallas, Tex. 75206.
CS72-163.....	7-26-71	Chieftain Petroleum, Inc. (successor to Big Chief Drilling Co.), Post Office Box 14837, Oklahoma City, OK 73114.
CS72-164.....	8-18-71	Texoil Co., 706 Southwest Tower, Houston, Tex. 77002.
CS72-165.....	8-19-71	Richard M. Stevens (Operator) et al., 610 Alamo National Bldg., San Antonio, Tex. 78205.
CS72-166.....	8-23-71	Spa Enterprises, Post Office Box 1644, 201 Pinetree Rd., Longview, TX 75601.
CS72-167.....	8-23-71	L. L. Romines, 1412 Bond St., Pampa, TX 79065.
CS72-168.....	8-23-71	E. L. Green, Jr., Post Office Box 1101, Pampa, TX 79065.
CS72-169.....	8-24-71	Miss-Tex Oil Producers, 225 Petroleum Bldg., Jackson, MS 39201.
CS72-170.....	8-24-71	Robert M. Moon, 225 Petroleum Bldg., Jackson, Miss. 39201.
CS72-171.....	8-24-71	E. R. Hines, Jr., 225 Petroleum Bldg., Jackson, Miss. 39201.

[FR Doc.71-13332 Filed 9-10-71;8:45 am]

[Docket No. RP72-22]

SOUTHERN NATURAL GAS CO.

Notice of Proposed Changes in Rates and Charges

SEPTEMBER 8, 1971.

Take notice that on August 16, 1971, Southern Natural Gas Co. (Southern) filed changes in its FPC Gas Tariff pursuant to Section 4(e) of the Natural Gas Act to be effective October 1, 1971. The proposed tariff revisions would increase charges for jurisdictional sales by 0.59 cents per Mcf or $3,575,656 annually.

The company states that the proposed changes are necessary to recover increased purchased gas expense as a result of Commission Order No. 428, issued March 18, 1971, establishing blanket certificate procedures for small producer sales and Commission Opinion No. 598, issued July 16, 1971, determining just and reasonable rates for natural gas produced in the South Louisiana area.

Copies of the proposed tariff changes were served on Southern's customers and interested State commissions.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 17, 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 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.71-13477 Filed 9-10-71;8:48 am]

[Docket No. RP72-27]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Proposed Increase in Rates and Charges

SEPTEMBER 8, 1971.

Take notice that on August 19, 1971, Transcontinental Gas Pipe Line Corp. (Transco) tendered for filing 25 revised tariff sheets to its FPC Gas Tariff, Original Volume No. 1, to be effective as of September 19, 1971, or such later date as may result from the requirements of Executive Order No. 11615, issued August 15, 1971.

Transco states that the increase contained in the revised tariff sheets result from increased purchased gas costs realized by Transco on or before the proposed effective date and result principally from cost changes following the issuance of Opinion No. 598. That opinion issued July 16, 1971, established just and reasonable rates for the Southern Louisiana Area to be effective as of September 19, 1971. The company further states that the impact of the filing would be to increase the commodity component of its Rate Schedules CD, G, OG, E, PS, ACQ, LFT and S-2 by 1.2 cents per Mcf. Copies of the filing are on file with the Commission for public inspection. Copies of the filing have also been served upon interested state commissions and the company's customers.

Any person desiring to be heard or to make protest with respect to said filing should on or before September 13, 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 or to participate as a party in any proceeding therein must file petitions to intervene in accordance with the Commission's rules. The tender is on file with the Commission and available for public inspection.

Any order or orders issued in this proceeding shall be subject to the Commission's statement of policy implementing the Economic Stabilization Act of 1970 (Public Law 91-379, 84 Stat. 799, as amended by Public Law 92-15, 85 Stat. 38) and Executive Order No. 11615, including such amendments as the Commission may require.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-13478 Filed 9-10-71;8:48 am]

[Docket Nos. CP67-220 etc.]

TRANSWESTERN PIPELINE CO. ET AL.

Notice of Filing of Executed Service Agreement

SEPTEMBER 1, 1971.

Take notice that on July 26, 1971, Transwestern Pipeline Co. (Transwestern) filed an executed service agreement with Cities Service Gas Co. (Cities Service) dated July 20, 1971, under which initial service is to begin as a result of Commission's approval of applications issued in opinion Nos. 574 and 574-A, March 11 and May 8, 1970, 43 FPC 322 and 43 FPC 712, respectively.

Transwestern requested waiver of the 30-day notice period required by § 154.22 of the regulations under the Natural Gas Act in order to effectuate initial service on August 1, 1971.

The service agreement submitted on July 26, 1971, provides for deliveries of natural gas by Transwestern to Cities Service of 75,000 Mcf/d in the first year of service, 100,000 Mcf/d in the second year and 150,000 Mcf/d in the third year of service. In effect this schedule would delay deliveries at the 150,000 Mcf per day level by 1 year over that affirmed by the Commission in Opinion No. 574. The contract between Transwestern and Cities Service also provided for increased deliveries to 250,000 Mcf/d in the fourth year of service. Approval of deliveries beyond the 150,000 Mcf/d level was neither sought nor granted by Opinion No. 574.

On August 25, 1971, the Commission conditionally accepted the rate filing of Transwestern and waived the 30-day notice requirement of the regulations to permit the service agreement to become effective August 1, 1971, subject to its statement of policy implementing the Economic Stabilization Act of 1970 (Public Law 91-379, 84 Stat. 799, as amended by Public Law 92-15, 85 Stat. 38) and Executive Order No. 11615, including such amendments as the Commission may require. The Commission directed, however, that the acceptance of the service agreement was not to be construed as a waiver of the requirements of section 7 of the Natural Gas Act, and that it should not be construed as constituting approval of any service, rate, charge, classification, or any rule, regulation or practice affecting such service or rate, nor was the acceptance to be deemed to be in recognition of any claimed contractual right or obligation effecting or relating to such service or rate, and that such acceptance was without prejudice to any findings or orders which may hereafter be made by the Commission in any proceeding now pending or hereafter instituted by or against Transwestern.

Any person desiring to be heard or to make any protest with reference to said rate filing should on or before September 22, 1971, file with the Federal Power Commission, Washington, DC 20426, a protest or objection in accordance with the requirements of the Commission's rules of practice and procedure and the regulations under the Natural Gas Act.

All protests or objections 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 if they are not already parties thereto. 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.71-13441 Filed 9-10-71;8:51 am]

[Docket No. CP72-44]

TRUNKLINE GAS CO.

Notice of Application

SEPTEMBER 3, 1971.

Take notice that on August 26, 1971, Trunkline Gas Company (applicant), Post Office Box 1642, Houston, TX 77001, filed in Docket No. CP72-44 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of natural gas with Phillips Petroleum Co. (Phillips), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has entered into a natural gas purchase and exchange agreement with Phillips for the purchase and exchange of natural gas produced from Phillips' leases in the Erath Field, Vermilion Parish, La. The initial volumes to be purchased under the aforementioned agreement are estimated to average 25,000 Mcf per day and will not exceed 60,000 Mcf per day. After the purchase by applicant of 15,000,000 Mcf, it will continue to receive natural gas at the same delivery rate but will purchase only 20 percent of this quantity. The remaining 80 percent will be exchanged with Phillips.

Applicant states that it will receive gas from Phillips at the outlet of the Texaco, Inc., Henry Plant, Vermilion Parish, La., and will redeliver the exchange volumes to Phillips near its Bayou Gasoline Plant in Brazoria County, Tex. No new facilities are proposed herein.

Any person desiring to be heard or to make any protest with reference to said

application should on or before September 27, 1971, file with the Federal Power Commission, Washington, DC 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.71-13442 Filed 9-10-71;8:51 am]

FEDERAL RESERVE SYSTEM

AMERICAN BANKSHARES CORP.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by American Bankshares Corp., which is a bank holding company located in Milwaukee, Wis., for prior approval by the Board of Governors of the acquisition by applicant of 80 percent or more of the voting shares of Central Bank, West Allis, Wis.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Chicago.

Board of Governors of the Federal Reserve System, September 3, 1971.

[SEAL] TYNAN SMITH,
Secretary.

[FR Doc.71-13363 Filed 9-10-71;8:45 am]

FIRST NATIONAL HOLDING CORP.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by First National Holding Corp., which is a bank holding company located in Memphis, Tenn., for prior approval by the Board of Governors of the acquisition by applicant of 100 percent of the voting shares of the successor by merger to The Banking and Trust Co., Jonesboro, Tenn.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of St. Louis.

Board of Governors of the Federal Reserve System, September 3, 1971.

[SEAL] TYNAN SMITH,
Secretary.

[FR Doc.71-13364 Filed 9-10-71;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 71-9]

AEROSPACE CONTRACTORS RECEIVING NASA AWARDS

List

The following is a list of aerospace contractors which received direct NASA awards totaling $10 million or more in fiscal year 1971. This list is published pursuant to section 6 of Public Law 91-119, as amended by section 7 of Public Law 91-303 (84 Stat. 372; 42 U.S.C. 2462, 1970 Supp.). For related NASA reporting requirements, see 14 CFR Part 1208 (36 F.R. 12597, July 2, 1971).

Aerojet-General Corp., 9100 East Flair Drive, El Monte, CA 91734.
Bellcomm, Inc., 955 L'Enfant Plaza North SW., Washington, DC 20024.
The Bendix Corp., Bendix Center, Southfield, Mich. 48075.
The Boeing Co., Post Office Box 3707, Seattle, WA 98124.
Brown Engineering Co., Research Park, Huntsville, Ala. 35807.
Brown & Root-Northrop, Post Office Box 34416, Houston, TX 77034.
California Institute of Technology, 1201 East California Boulevard, Pasadena, CA 91109.
Chrysler Corp., 341 Massachusetts, Highland Park, MI 48203.
Commonwealth of Australia, Department of Supply, Anzac Park West Building, Constitution Avenue, Canberra, Australia.
Computer Sciences Corp., 1901 Avenue of the Stars, Los Angeles, CA 90067.
Computing & Software, Inc., 1900 Avenue of the Stars, Suite 2100, Century City, Los Angeles, CA 90067.
Fairchild Industries, Inc., Sherman Fairchild Technical Center, Germantown, Md. 20767.
Federal Electric Corp., 621-671 Industrial Avenue, Paramus, NJ 07652.
General Dynamics Corp., 1 Rockefeller Plaza, New York, N.Y. 10020.
General Electric Co., 570 Lexington Avenue, New York City, NY 10022.
General Motors Corp., General Motors Building, Detroit, Mich. 48202.
Grumman Aerospace Corp., Bethpage, Long Island, N.Y. 11714.
Honeywell, Inc., 2701 4th Avenue South, Minneapolis, MN 55408.
Hughes Aircraft Co., Culver City, Calif. 90230.
International Business Machines Corp., Route 22, Armonk, NY 10504.
LTV Aerospace Corp., Post Office Box 5003, Dallas, TX 75222.
Lockheed Aircraft Corp., 2555 North Hollywood Way, Burbank, CA 91503.

Lockheed Electronics Co., U.S. Highway 22, Plainfield, N.J. 07061.
Martin Marietta Corp., Friendship International Airport, Md. 21240.
Massachusetts Institute of Technology, Massachusetts Avenue, Cambridge, Mass. 02139.
McDonnell Douglas Corp., Post Office Box 516, St. Louis, MO 63166.
North American Rockwell Corp., 2300 East Imperial Highway, El Segundo, CA 90245.
Northrop Corp., 1800 Century Park East, Beverly Hills, CA 90067.
Philco-Ford Corp., C & Tioga Streets, Philadelphia, PA 19134.
RCA Corp., 30 Rockefeller Plaza, New York, N.Y. 10020.
Radiation, Inc., Post Office Box 37, Melbourne, FL 32901.
Service Technology Corp., 2345 West Mockingbird Lane, Dallas, TX 75235.
The Singer Co., 30 Rockefeller Plaza, New York, N.Y. 10020.
Sperry Rand Corp., 1290 Avenue of the Americas, New York, NY 10019.
TRW, Inc., 23555 Euclid Avenue, Cleveland, OH 44117.
Trans World Airlines, Inc., 605 Third Avenue, New York, NY 10016.
United Aircraft Corp., 400 Main Street, East Hartford, CT 06108.

RICHARD J. KEEGAN,
Acting Director of Procurement, National Aeronautics and Space Administration.

[FR Doc.71-13409 Filed 9-10-71;8:48 am]

SECURITIES AND EXCHANGE COMMISSION

[812-2984]

CHASE FRONTIER FUND OF BOSTON, INC., AND CHASE CAPITAL FUND OF BOSTON, INC.

Notice of Application for Order Exempting Proposed Transaction

SEPTEMBER 3, 1971.

Notice is hereby given that Chase Frontier Fund of Boston, Inc. (Frontier), and Chase Capital Fund of Boston, Inc. (Capital), 535 Boylston Street, Boston, MA 02116, each of which is registered as an open-end, diversified management investment company under the Investment Company Act of 1940 (Act) (herein referred to collectively as the "Applicants"), have filed an application pursuant to section 17(b) of the Act for an order exempting from the provisions of section 17(a) of the Act to the extent necessary the proposed sale by Capital and the acquisition by Frontier of substantially all of the Capital's assets in exchange for shares of common stock of Frontier as more fully described below. Applicants have also requested, pursuant to section 6(c) of the Act, an exemption from section 22(d) of the Act to permit participants in Capital's Letter of Intent program to complete said program by purchasing Frontier shares. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

The same individuals who serve Frontier as directors also serve Capital as directors, and the officers of Frontier hold the identical offices with Capital. Several of the directors of Frontier and of Capital are also officers and directors of John P. Chase, Inc., the investment adviser of both Frontier and Capital. Chase Investment Services of Boston, Inc., a wholly owned subsidiary of the adviser, is the principal underwriter of Capital and will serve as such for Frontier. Accordingly, each of the Applicants may be deemed to be under common control, and therefore are affiliated persons of the other within the meaning of section 2(a)(3) of the Act.

Section 17(a) of the Act, as here pertinent, provides that it is unlawful for any affiliated person of a registered investment company or any affiliated person of such an affiliated person, to sell to or purchase from such investment company any security or property unless the Commission, upon application pursuant to section 17(b), grants an exemption from the provisions of section 17(a) after finding that the terms of the proposed transaction are fair and reasonable and do not involve any overreaching on the part of any person concerned, that the proposed transaction is consistent with the policy of each registered investment company concerned, and that the proposed transaction is consistent with the general purposes of the Act.

Frontier and Capital have entered into an Agreement and Plan of Reorganization (the "Agreement") which has been approved by the board of directors of both funds. The Agreement provides that substantially all of the net assets of Capital with a net value of approximately $18,908,750 at March 31, 1971, will be transferred to Frontier in exchange for shares of Frontier. These shares of Frontier will be distributed pro rata to the stockholders of Capital in liquidation of Capital and Capital will, thereafter, be dissolved. Fractional shares of Frontier's Common Stock will be carried to the third decimal place. The number of shares of Frontier Common Stock to be transferred to Capital will be computed by dividing the net asset value of Capital, as adjusted in accordance with a formula set forth in the Application to apportion the tax burden for realized and unrealized capital gains, by the net asset value per share of Frontier. Frontier will assume no liabilities of Capital except for certain bank indebtedness, if any, existing on the closing date. The reorganization will be consummated only if it is approved by the shareholders of Capital and Frontier.

Under the Agreement, the closing date is the next business day following the day shareholders of Capital and Frontier approve the plan of reorganization. Frontier is required prior to the closing date to effect a stock dividend which will reduce the disparity in the relative net asset values per share between the two funds. In addition, in the event that management of Capital finds it advantageous to Capital's stockholders to elect to be taxed as a regulated investment company, Capital will be required under the agreement to distribute to its shareholders shortly before the closing date all of its net investment income and net realized capital gains since the close of its last fiscal year in excess of any applicable loss carry forwards. In the past Capital has not so elected. Frontier will make a similar distribution in the event distribution would exceed $30,000.

If the closing had occurred on March 31, 1971, after giving effect to the proposed plan of reorganization, the net asset value per share of Capital Stock and Frontier Stock would have been $7.86 and $7.48 respectively; [1] and the holder of a share of Capital stock would have been entitled to receive 1.051 shares of stock of Frontier upon the liquidation and dissolution of Capital.

Since the exchange is expected to be tax free for Capital and its security holders, Frontier's cost-basis for tax purposes of the assets to be acquired will be the same as Capital's rather than the price actually paid. Applicants represent and agree that any order issued by the Securities and Exchange Commission in this matter may be issued upon the condition that prior to the consummation of the transactions set forth in the Agreement, Applicants shall receive from the Internal Revenue Service favorable rulings that such transactions will be tax free and that the capital loss carryover of Capital will be available to Frontier.

The Applicants represent that the proposed transactions are, in accordance with section 17(b), reasonable and fair to all parties, are consistent with the investment policies of each party, and are consistent with the policies of the Act. Applicants point out that the exchange will be on the basis of respective net asset values, with a possible adjustment for capital gains to apportion potential tax liabilities. Applicants represent that the consummation of the proposed transaction will eliminate the current duplication of certain expenses borne by the Applicants such as accountants' fees and legal fees, and that the anticipated benefit to stockholders of both Applicants of a reduction in applicable ratios of operating expenses to income warrants incurring the expenses incident to the proposed transaction.

The Applicants represent that the proposed transactions are consistent with the investment policy of each registered investment company concerned. Frontier and Capital are each open-end investment companies registered with the Commission under the Act. Each Applicant has its principal investment objective capital appreciation through investment in common stocks or other equity securities, and each is authorized to expand investments through the permitted use of bank borrowings, sometimes called "leverage." The other investment policies of each are also substantially consistent.

[1] If the exchange had been made on Mar. 31, 1971, the actual net asset per share of Frontier would have been $89.75. However, a 12 for 1 stock split up in the form of a dividend would have reduced the disparity.

Applicants also represent that the proposed transactions are consistent with the general purposes and policies of the Act and are not conducive to any of the practices sought to be eliminated or corrected by the Act; none of the evils to which section 17(a) is directed are present where the exchange is on the basis of respective net asset values as described above.

Section 22(d) provides, in substance, that no registered investment company may sell any redeemable security issued by it except either to or through a principal underwriter for distribution or at a current public offering price described in its prospectus. Such current public offering price includes the sales load.

Consummation of the agreement is subject, among other things, to the Directors of Frontier adopting shareholder programs, including the letter of intent programs now in effect only for Capital, so that, upon consummation of the transactions to be effected at the closing provided for in the Agreement, these programs will continue to be available to former Capital shareholders as well as other shareholders of Frontier. Shareholders of Capital participating in a letter of intent program who at the time of reorganization have not completed purchases of Capital shares sufficient in amount to entitle them to the reduced sales load specified in their letter of intent may, following the reorganization, complete their program through the purchase of Frontier shares.

Rule 22d-1(a)(3) of the Rules under the Act, in relevant part, provides that sales loads may be reduced without violating section 22(d) if sales are made pursuant to a letter of intent which complies with the standards set forth therein. A participant in Capital's letter of intent program who, after receiving credit for his prior purchases of Capital shares, completes said program by purchasing Frontier shares may be deemed to have received securities pursuant to a letter of intent program which does not come within the literal requirements of Rule 22d-1(a)(3) under the Act.

Section 6(c) authorizes the Commission to exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from the provisions of the Act and Rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants state that if section 22(d) is deemed to prohibit completing such program in this manner, all such participants having outstanding letters of intent would be denied the opportunity to make purchases at reduced sales load even though such opportunities were available to shareholders of Capital prior to the reorganization and are expected to be available to Frontier shareholders pursuant to new letters executed after the reorganization. Applicants represent that the proposal to permit completion of Capital's letters of intent programs by the purchase of Frontier shares is designed to avoid these inequitable consequences.

Applicants further represent that the exemption of said proposal from the provisions of section 22(d) pursuant to section 6(c) is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than September 23, 1971 at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said applications, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-13371 Filed 9-10-71;8:46 am]

[File No. 1-4847]

ECOLOGICAL SCIENCE CORP.

Order Suspending Trading

SEPTEMBER 3, 1971.

The common stock, 2 cents par value, of Ecological Science Corp. being traded on the American Stock Exchange, the Philadelphia-Baltimore-Washington Stock Exchange and the Pacific Coast Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Ecological Science Corp. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such security on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchanges and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period September 6, 1971 through September 15, 1971.

By the Commission.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-13372 Filed 9-10-71;8:46 am]

[File No. 1-4692]

FAS INTERNATIONAL, INC.

Order Suspending Trading.

SEPTEMBER 3, 1971.

The common stock, 2 cents par value, and the 5 percent convertible subordinated debentures due 1989 of FAS International, Inc., being traded on the New York Stock Exchange, Inc., pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of FAS International, Inc. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such Exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period September 4, 1971 through September 13, 1971.

By the Commission.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-13373 Filed 9-10-71;8:46 am]

[70-5071]

MASSACHUSETTS ELECTRIC CO.

Notice of Proposed Amendment of Bylaws and Order Authorizing Solicitation of Proxies in Connection Therewith

SEPTEMBER 3, 1971.

Notice is hereby given that Massachusetts Electric Co. (Mass Electric), 20 Turnpike Road, Westborough, MA 01581, an electric utility subsidiary company of New England Electric System (NEES), a registered holding company, has filed a declaration and amendments thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a)(2), 7(c), and 12(e) of the Act and Rules 62 and 65 promulgated thereunder

as applicable to the proposed transactions. All interested persons are referred to the declaration, as amended, which is summarized below, for a complete statement of the proposed transactions.

Mass Electric proposes to amend its Bylaws to increase the number of shares of preferred stock that may be issued, without a vote of the preferred stockholders, from 300,000 to 600,000 shares. The amendment to the Bylaws will require the affirmative vote by the holders of two-thirds of the now outstanding common stock voting as one class. NEES, which owns all of the outstanding common stock of Mass Electric, is expected to vote in favor of the amendment. The amendment will also require the affirmative vote by the holders of two-thirds of the now outstanding 250,000 shares of preferred stock voting as one class. The declaration states that Mass Electric will require substantial additional funds during the next few years to finance its continuing construction program and expects to finance such expenditures in part by sales of additional preferred stock, including an issue of 150,000 shares presently scheduled for sale in December 1971.

Mass Electric intends to submit the proposed amendment of its Bylaws to its stockholders for their approval at a special meeting of stockholders which is to be held on October 7, 1971. In connection therewith, Mass Electric proposes, pursuant to Rule 62 under the Act, to solicit proxies from holders of its outstanding preferred stock to be voted at the meeting. Mass Electric does not propose to engage the services of professional proxy solicitors in connection with the proposed solicitation of its stockholders although Mass Electric itself proposes to make such solicitation.

Expenses to be incurred in connection with the proposed transactions are estimated at $4,000, including services of the system service company, at cost, of $2,300. The declaration states that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed amendment of the Bylaws.

Mass Electric has requested that the effectiveness of its declaration with respect to the solicitation of proxies from holders of its preferred stock be accelerated as provided in Rule 62.

Notice is further given that any interested person may, not later than September 30, 1971, request in writing that a hearing be held with respect to the proposed amendment of the Bylaws, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended or as it may be further amended, may be permitted to become effective pursuant to Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

It appearing that the declaration regarding the proposed solicitation of proxies should be permitted to become effective forthwith pursuant to Rule 62:

It is ordered, That the declaration regarding the proposed solicitation of proxies be, and it hereby is, permitted to become effective forthwith pursuant to Rule 62 and subject to the terms and conditions prescribed in Rule 24 under the Act.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-13374 Filed 9-10-71;8:46 am]

SMALL BUSINESS ADMINISTRATION

[License No. 02/02-5283]

RUTGERS MINORITY INVESTMENT CO.

Notice of Filing of Application for Transfer of Control of Licensed Small Business Investment Company

Notice is hereby given that application has been filed with the Small Business Administration (SBA), pursuant to § 107.701 of the regulations governing Small Business Investment Companies (13 CFR 107.701 (1971)) for transfer of control of Rutgers Minority Investment Co. (Rutgers), 18 Washington Place, Newark, NJ 07101, a Federal licensee under the Small Business Investment Act of 1958, as amended (15 U.S. 661 et seq.), License No. 02/02-5283.

Rutgers was licensed on July 28, 1970, and had paid-in capital from private sources of $200,000.

The International Telephone and Telegraph Corp., owner of 99.50 percent, or 200 shares of the common stock of Rutgers, proposes to transfer 49.75 percent, or 100 shares of Rutgers common stock to the Rutgers Graduate School of Business Administration. The proposed transaction is subject to and contingent upon the approval of SBA.

The names and addresses of the proposed officers, directors, and stockholders of Rutgers are as follows:

Charles G. Sherwood, 30 Alexander Avenue, Nutley, NJ 07110, Chairman of the Board of Directors.

Louis T. German, 1509 Liberty Avenue, Hillside, NJ 07205, President and Director.

Horace J. DePodwin, 18 Washington Place, Newark, NJ 07102, Vice Chairman of the Board of Directors.

Russell C. Mass, 18 Washington Place, Newark, NJ 07102, Treasurer.

Katherine M. Sortor, 333 East 69th Street, New York, NY 10021, Secretary and Director.

Lyman C. Hamilton, Jr., 61 Norwood Avenue, Upper Montclair, NJ 07043, Director.

International Telephone and Telegraph Corp., 320 Park Avenue, New York, NY 10022, 49.75 percent stockholder.

Rutgers Graduate School of Business Administration, 18 Washington Place, Newark, NJ 07102, 49.75 percent stockholder.

Rutgers Graduate School of Business Administration, Alumni Association, 18 Washington Place, Newark, NJ 07102, 0.50 percent stockholder.

Matters involved in SBA's consideration of the application include the general business reputation and character of the management and of the proposed transferee, and the possibility of successful operations of the company under their control and management (including adequate profitability and financial soundness) in accordance with the Act and Regulations.

Notice is further given that any interested person may, not later than 15 days from the date of publication of this notice, submit to SBA, in writing, relevant comments on the proposed transfer of control. Any such comments should be addressed to Associate Administrator for Operations and Investment, Small Business Administration, 1441 L Street NW., Washington, DC 20416.

A copy of this notice shall be published by the proposed transferee in a newspaper of general circulation in Newark, N.J.

Dated: August 25, 1971.

A. H. SINGER,
Associate Administrator for Operations and Investment.

[FR Doc.71-13370 Filed 9-10-71;8:46 am]

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF HEARINGS

SEPTEMBER 8, 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 postponement of hearings in which they are interested.

MC 111545 Sub 150, Home Transportation Co., Inc., is dismissed.

MC 113495 Sub 50, Gregory Heavy Haulers, Inc., assigned October 18, 1971, in Room 914 Federal Office Building, 167 North Main Street, Memphis, TN.

MC 32882 Sub 45, Mitchell Bros. Truck Lines, is dismissed.

MC 115841 Sub 407, Colonial Refrigerated Transportation, Inc., assigned September 29, 1971, in Room 305, 1252 West Peachtree Street NW., Atlanta, GA.

MC 128273 Sub 88, Midwestern Express, Inc., assigned September 27, 1971, in Room 305, 1252 West Peachtree Street NW., Atlanta, GA.

Released Rates Application No. MC 1228, Classification Ratings on Clothing, NOI, National Motor Freight Traffic Association, Inc., assigned August 30, through September 3, 1971, at Washington, D.C., has been continued to November 30, 1971, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 200 Sub 236, RISS INTERNATIONAL CORP., now assigned September 27, 1971, at Omaha, Nebr., will be held in Room 2404 Federal Building, 215 North 17th Street, instead of in Room 2404 Federal Building, 106 South 15th Street.

MC 105146 Sub 5, Coordinated Transportation Co., assigned October 13, 1971, in Room 3A-19, Federal Building, 1100 Commerce Street, Dallas, TX.

MC 11592 Sub 9, Best Refrigerated Express, Inc., now assigned September 27, 1971, at Omaha, Nebr., will be held in Room 2404 New Federal Building, 215 North 17th Street, instead of in Room 2404 New Federal Building, 106 South 15th Street.

MC 134286 Sub 4, Arctic Transport, Inc., and MC 134724 Sub 3, Teddy D. Clark, doing business as Big Rig Refrigeration, now assigned September 30, 1971, at Omaha, Nebr., will be held in Room 2404 New Federal Building, 215 North 17th Street, instead of in Room 2404 New Federal Building, 106 South 15th Street.

MC 119619 Sub 36, Distributors Service Co., and MC 133574 Sub 6, Terrill Trucking Co., now assigned October 1, 1971, at Omaha, Nebr., will be held in Room 2404 New Federal Building, 215 North 17th Street, instead of in Room 2404 New Federal Building, 106 South 15th Street.

MC 107295 Sub 375, Pre-Fab Transit Co., assigned October 12, 1971, in Room 3A-19, Federal Building, 1100 Commerce Street, Dallas, TX.

FD 26424, Atchison, Topeka & Santa Fe Railway Co., abandonment between Socorro and Magdalena, N. Mex., assigned October 21, 1971, in Room 2208, Federal Building and Post Office, North Federal Place, Santa Fe, N. Mex.

FD 24449, Atchison, Topeka & Santa Fe Railway Co., abandonment between S. N. Junction and Sonora, Tex., assigned October 18, 1971, on the Second Floor, Central National Bank Building, Beauregard and Irving Streets, San Angelo, Tex.

FD 26515, Chicago, Milwaukee, St. Paul & Pacific Railroad Co., abandonment between Brodhead and New Glarus, Green County, Wis., now assigned October 12, 1971, at Madison, Wis., will be held in Room 99A, Hill Farms State Office Building, 4802 Sheboygan Avenue, instead of in Room 500, Forest Products Laboratory, North Walnut Street.

MC 125102 Sub 11, Leonard Delue, Etalia partnership doing business as Armored Motors Service, now assigned September 13, 1971, at Washington, D.C., is canceled and dismissed.

FD 26541, Amoskeag Co. & Dumaines Control (through voting of trusteed stock) Maine Central Railroad Co., assigned September 14, 1971, at Portland, Maine, postponed indefinitely.

MC 135312, Floyd W. Mensch, now assigned October 12, 1971, at Washington, D.C., has been postponed indefinitely.

MC 125674 Sub 7, The Sentinel Star Express Co., doing business as Jack Rabbitt Express, now assigned September 13, 1971, at Miami, Fla., postponed to October 12, 1971, at the Florida Public Service Commission, 5720 Southwest 17th Street, Miami, FL.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-13450 Filed 9-10-71;8:52 am]

[Drought Order No. 66 (Sub No. 11)]

CERTAIN DROUGHT AREAS IN TEXAS AND OKLAHOMA

Transportation of Hay at Reduced Rates

In the matter of relief under section 22 of the Interstate Commerce Act.

Present: Dale W. Hardin, Vice Chairman, to whom the above entitled matter has been assigned for action thereon.

It appearing, that by reasons of drought conditions existing in certain portions of the States of Oklahoma and Texas, hereinafter referred to as the disaster areas, the Assistant Secretary of the U.S. Department of Agriculture, has requested the Commission to enter an order under section 22 of the Interstate Commerce Act authorizing railroads subject to the Commission's jurisdiction to transport hay to the disaster areas at reduced rates:

It is ordered, That carriers by railroad participating in the transportation of hay to the counties of:

Beaver.	Jefferson.
Caddo.	Stephens.

all located in the State of Oklahoma; and

Matagorda.	Nolan.
Montague.	

all located in the State of Texas, referred to herein as the disaster areas, be, and they are hereby, authorized under section 22 of the Interstate Commerce Act to establish and maintain until March 31, 1972, reduced rates for such transportation, the rates to be published and filed in the manner prescribed in section 6 of the Interstate Commerce Act except that they may be effective 1 day after publication and filing instead of 30.

It is further ordered, That the class of persons entitled to such reduced rates is hereby defined as persons designated as being in distress and in need of relief by the U.S. Department of Agriculture or by such State agents or agencies as may in turn be designated by the U.S. Department of Agriculture to assist in relieving the distress caused by the drought.

It is further ordered, That, during the period in which any reduced rates authorized by this order are effective the carriers may notwithstanding the provisions of section 4 of the Interstate Commerce Act, maintain higher rates to directly intermediate points and maintain through rates in excess of the aggregate of intermediate rates over the same routes if one or more of the factors of such aggregate of intermediate rates is a reduced rate established under the authority of this order.

It is further ordered, That any tariffs or tariff provisions published under the authority of this order shall explicitly so state, making reference to this order by number and date.

And it is further ordered, That, subject to the conditions in the succeeding paragraphs hereof, the use of reduced rates established by authority of this order may be conditioned upon the release by the shipper of the value of the commodity, which released value, in its relation to the invoice value of the property at time of shipment, shall be in the same percentage relation which the reduced rates bear to the rates which otherwise would apply.

And it is further ordered, That tariffs containing released rates filed under authority of this order shall show in connection with such rates the following notation:

The released value must be entered on shipping order and bill of lading in the following form:

The agreed or declared value of the property is hereby specifically stated by the shipper to be not in excess of (show percent) of the invoice value of the property herein described.

If the shipper fails or declines to execute the above statement, shipments will not be accepted for transportation at the rates subject hereto. Rates published elsewhere in other tariffs lawfully filed with the Interstate Commerce Commission will apply in such a case. Rates herein published on released value have been authorized by the Interstate Commerce Commission in Drought Order No. 66 (Sub No. 11) of September 1971.

And it is further ordered, That notice to the affected railroads and the general public shall be given by depositing a copy of this order in the Office of the Secretary of the Commission and by filing a copy with the Director, Office of the Federal Register; and that copies be mailed to the Chairman of the Traffic Executive Association—Eastern Railroads, New York, N.Y.; the Chairman of the Southern Freight Association, Atlanta, Ga.; the Chairman of the Executive Committee, Western Railroads Traffic Association, Chicago, Ill.; the Vice President and Director, Bureau of Railway Economics, Association of American Railroads, Washington, D.C.; and to the President of the American Short Line Railroad Association, Washington, D.C.

Dated at Washington, D.C., this 2d day of September 1971.

By the Commission, Vice Chairman Hardin.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-13444 Filed 9-10-71;8:52 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

SEPTEMBER 8, 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. 42274—*Woodpulp and woodpulp screenings, also newsprint paper from Tupper, Nova Scotia, Canada.* Filed by Traffic Executive Association—Eastern Railroads, agent (E.R. No. 3006), for interested rail carriers. Rates on woodpulp and woodpulp screenings, also newsprint paper, in carloads, as described in the application, from Tupper, Nova Scotia, Canada, to specific points in trunkline and New England territories.

Grounds for relief—Water-truck competition.

Tariffs—Supplement 73 to Canadian National Railways tariff ICC E.538, and supplement 14 to Canadian Freight Association, tariff ICC 341. Rates are published to become effective on October 8, 1971.

FSA No. 42275—*Pulpwood from points in Kansas.* Filed by Southwestern Freight Bureau, agent (No. B-259), for interested rail carriers. Rates on pulpwood, in carloads, as described in the application, from specified points in Kansas, to Shreveport, La., when destined to Zee, La.

Grounds for relief—Short-line distance formula and grouping.

Tariff—Supplement 116 to Southwestern Freight Bureau, agent, tariff ICC 4774. Rates are published to become effective on October 13, 1971.

By the Commission.

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

[FR Doc.71-13451 Filed 9-10-71;8:52 am]

[Sec. 5a Application 104]

ALASKA INTERREGIONAL AGREEMENT

Application for Approval of Agreement

AUGUST 12, 1971.

The Commission is in receipt of the above-entitled and numbered application for approval of an agreement under the provisions of section 5a of the Interstate Commerce Act.

Filed June 22, 1971, by:

W. R. Watson, Room 315, Union Station, Fourth South and South Jackson, Seattle, WA 98104.

Louis A. Harris, Assistant General Counsel, Burlington Northern, Inc., 176 East Fifth Street, St. Paul, MN 55101.

J. M. Souby, Jr., Chairman and Counsel, Western Railroad Traffic Association, Union Station Building, 516 West Jackson Boulevard, Chicago, IL 60606.

Attorneys-in-fact.

Agreement involves: Organization, practices, and procedures between and among rail and water common carriers for the consideration, initiation, or establishment of interregional joint rates, and related matters, applicable on traffic moving in interstate or foreign commerce, partly by railroad and partly by water when both are used under a common control, management, and arrangement for continuous carriage in interstate or foreign commerce (a) between points in Alaska and points in the contiguous 48 States of the United States, and (b) between points in Alaska and points in adjacent foreign countries, through one or more of the 48 contiguous States of the United States, but limited to such transportation under joint rates or over through routes.

The complete application may be inspected at the Office of the Commission, in Washington, D.C.

Any interested person desiring to protest and participate in this proceeding shall notify the Commission in writing within 20 days from the date of publication of this notice in the FEDERAL REGISTER. As provided by the general rules of practice of the Commission, persons other than applicants should fully disclose their interest, and the position they intend to take with respect to the application. Otherwise, the Commission, in its discretion, may proceed to investigate and determine the matters involved without public hearing.

By the Commission.

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

[FR Doc.71-13445 Filed 9-10-71;8:52 am]

[Sec. 5a Application 105]

ALASKA RAIL-WATER ASSOCIATION

Application for Approval of Agreement

AUGUST 12, 1971.

The Commission is in receipt of the above-entitled and numbered application for approval of an agreement under the provisions of section 5a of the Interstate Commerce Act.

Filed June 23, 1971, by:

Louis A. Harris, Assistant General Counsel, Burlington Northern, Inc., 176 East Fifth Street, St. Paul, MN 55101.

W. R. Watson, Room 315, Union Station, Fourth South and South Jackson, Seattle, WA 98104.

Attorneys-in-fact.

Agreement involves: Organization and procedures between and among rail and water common carriers comprising the proposed Alaska Rail-Water Association for the joint consideration, initiation, or establishment of joint rates, and related matters, applicable to traffic moving in interstate or foreign commerce, partly by railroad and partly by water (a) between points in Alaska and points in the contiguous 48 States of the United States and (b) between points in Alaska and points in adjacent foreign countries, through one or more of the 48 contiguous States of the United States in connection with transportation under common control, management, or arrangement for a continuous carriage or shipment in interstate or foreign commerce and under joint rates or over through routes.

The complete application may be inspected at the Office of the Commission, in Washington, D.C.

Any interested person desiring to protest and participate in this proceeding shall notify the Commission in writing within 20 days from the date of publication of this notice in the FEDERAL REGISTER. As provided by the general rules of practice of the Commission, persons other than applicants should fully disclose their interest, and the position they intend to take with respect to the application. Otherwise, the Commission, in its discretion, may proceed to investigate and determine the matters involved without public hearing.

By the Commission.

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

[FR Doc.71-13446 Filed 9-10-71;8:52 am]

[Sec. 5a, Application 54, Amdt. 3]

HEAVY AND SPECIALIZED CARRIERS TARIFF BUREAU

Application for Approval of Amendments to Agreement

AUGUST 9, 1971.

The Commission is in receipt of an application in the above-entitled proceeding for approval of amendments to the agreement therein approved.

Filed June 23, 1971, by: Paul F. Sullivan, 711 Washington Building, 15th and New York Avenue NW., Washington, DC 20005.

Amendments involve: Increases in the membership composition and quorum requirements for both the Board of Directors and the General Tariff Committee and modify their respective territorial selection to provide better representation of an enlarged carrier membership; modify the ratemaking procedures; provide for public notice of independent action proposals; and show a list of the current carrier member parties.

The complete application may be inspected at the Office of the Commission, in Washington, D.C.

Any interested person desiring to protest and participate in this proceeding shall notify the Commission in writing within 20 days from the date of publication of this notice in the FEDERAL REGISTER. As provided by the general rules of practice of the Commission, persons other than applicants should fully disclose their interest, and the position they intend to take with respect to the application. Otherwise, the Commission, in its discretion, may proceed to investigate and determine the matters involved without public hearing.

By the Commission.

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

[FR Doc.71-13448 Filed 9-10-71;8:52 am]

[Sec. 5a Application 23; Amdt. 8]

MIDDLE ATLANTIC CONFERENCE

Application for Approval of Amendments to Agreement

AUGUST 31, 1971.

The Commission is in receipt of an application in the above-entitled proceeding for approval of amendments to the agreement therein approved.

Filed June 10, 1971, by:
Mr. T. B. Alfriend, Executive Vice President, Middle Atlantic Conference, Post Office Box 10213, Washington, DC 20018. (Attorney-in-fact).
Bryce Rea, Jr., Rea, Cross and Knebel, 917 Munsey Building, 1329 E Street NW., Washington, DC 20004.

The amendments involve: Designate the present provisions of Article X as paragraph (a) and add a new paragraph (b) thereto to provide procedures for expulsion of carrier members who fail to furnish the Conference with requested information and data in support of adopted changes in rates, charges, rules, regulations, and related matters; and to clarify the application of dues schedule 3(c) by substituting the phrase "common carriers of property by motor vehicle" for the phrase "carriers other than members."

The application may be inspected at the Office of the Commission in Washington, D.C.

Any person desiring to protest and participate in this proceeding shall notify the Commission in writing within 20 days from the date of publication of this notice in the FEDERAL REGISTER. As provided by the general rules of practice of the Commission, persons other than applicants should fully disclose their interest, and the position they intend to take with respect to the application. Otherwise, the Commission, in its discretion, may proceed to investigation and determine the matters involved without public hearing.

By the Commission.

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

[FR Doc.71-13449 Filed 9-10-71;8:52 am]

[Sec. 5a Application 39; Amdt. 2]

WESTERN STATES MOVERS' CONFERENCE

Application for Approval of Amendment to Agreement

AUGUST 9, 1971.

The Commission is in receipt of a supplemental application, in lieu of a prior application filed July 1, 1968, in the above-entitled proceeding for approval of amendment to the agreement therein approved.

Filed July 2, 1971, by:
R. Y. Schureman, Robert W. Hancock, 1545 Wilshire Boulevard, Los Angeles, CA 90017.

Amendments involve: Complete revision of the rate and tariff procedure rules (Article IX); provide for a majority of the members present for a quorum at annual and special meetings of the members and, if no quorum is present, to hold a meeting of those present and authorize ratification by a mail vote of actions there taken (Article IV); provide an alternative means of ratifying agreement amendments by a mail vote in addition to voting at meetings; and submit a list of carrier members currently party to the agreement.

The complete application may be inspected at the Office of the Commission, in Washington, D.C.

Any interested person desiring to protest and participate in this proceeding shall notify the Commission in writing within 20 days from the date of publication of this notice in the FEDERAL REGISTER. As provided by the general rules of practice of the Commission, persons other than applicants should fully disclose their interest, and the position they intend to take with respect to the application. Otherwise, the Commission, in its discretion, may proceed to investigate and determine the matters involved without public hearing.

By the Commission.

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

[FR Doc.71-13447 Filed 9-10-71;8:52 am]

[Notice 361]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 7, 1971.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 340 (Sub-No. 20 TA), filed August 27, 1971. Applicant: QUERNER TRUCK LINES, INC., 1131 Austin Street, San Antonio, TX 78208. Applicant's representative: M. Ward Bailey, 2412 Continental Life Building, Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix 1, *Descriptions in Motor Certificates* 61, M.C.C. 209 and 766, from the plantsite of Missouri Beef Packers, Inc., near Plainview, Tex., to points in Illinois, Indiana, Ohio, Michigan, Pennsylvania, Tennessee, New York, New Jersey, Massachusetts, Maryland, and the District of Columbia, for 180 days. Supporting shipper: Norman L. Cummins, Missouri Beef Packers, Inc., 630 Amarillo Building, Amarillo, Tex. 79101. Send protests to: Richard H. Dawkins, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 301 Broadway, Room 206, San Antonio, TX 78205.

No. MC 3009 (Sub-No. 84 TA), filed August 25, 1971. Applicant: ROADWAY EXPRESS, INC. OF MISS., 1077 George Boulevard, Post Office Box 471, Akron, OH 44309. Applicant's representative: James W. Connor (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods, as defined by the Commission, commodities in bulk, and those requiring special equipment); serving Vicksburg, Miss., as an off-route point in connection with carrier's regular route authority between Jackson, Miss., and Hattiesburg, Miss., for 180 days. NOTE: Applicant states it will tack with authority in MC-3009 and all subs thereto and will affect interchange at all points served. Supported by: There are approximately 15 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor Baccei, Interstate Commerce Commission, Bureau of Operations, 181 Federal Office Building, 1240 East Ninth Street, Cleveland, OH 44199.

No. MC 22254 (Sub-No. 60 TA), filed August 26, 1971. Applicant: TRANS-AMERICAN VAN SERVICE, INC., 7540 South Western Avenue, Chicago, IL 60620. Applicant's representative: Anthony Thomas, 1811 West 21st Street, Chicago, IL 60608. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Living room furniture*, from Benson, Ariz., to points in Colorado, Kansas, New Mexico, Oklahoma, Texas, Utah, and Wyoming, for 180 days. Supporting shipper: Fineline Inc., Benson, Ariz. Send protests to: District Supervisor Robert G. Anderson, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 29698 (Sub-No. 16 TA), filed August 26, 1971. Applicant: LESTER FELLOWS CO., 110 Halstead Street, East Orange, NJ 07018. Applicant's representative: Charles J. Williams, 47 Lincoln Park, Newark, NJ 07102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Hydrants and valves, and parts of hydrants and valves*, from the plantsite of United States Pipe & Foundry Co. at Burlington, N.J., to points in Connecticut, Delaware, Massachusetts, Maryland, Rhode Island and points in Pennsylvania and New York on and east of a line beginning at the Pennsylvania-Maryland State line and extending along U.S. Highway 220 to Bald Eagle, Pa., thence along Pennsylvania Highway 350 to Phillipsburg, Pa., thence along U.S.

Highway 322, via Clearfield, Pa., to junction U.S. Highway 219, thence along U.S. Highway 219 to Hamburg, N.Y., thence along U.S. Highway 62, via Buffalo, N.Y., to junction New York Highway 429, thence along New York Highway 429 to junction U.S. Highway 104, thence on and south of a line extending along U.S. Highway 104 to Mexico, N.Y., thence along New York Highway 69 to Utica, N.Y., and thence along New York Highway 8 to Ticonderoga, N.Y., and return shipments of the commodities named above from the above-specified destinations to Burlington, N.J., over irregular routes, restricted to a transportation service to be performed under a continuing contract, or contracts with the United States Pipe & Foundry Co. Supporting shipper: United States Pipe & Foundry Co., Burlington, N.J. 08016. Send protests to: District Supervisor Robert S. H. Vance, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

No. MC 36531 (Sub-No. 5 TA), filed August 30, 1971. Applicant: MAIN TRUCKING COMPANY, 52 Rainbow Avenue, Sunbury, OH 43074. Applicant's representative: Edwin H. Van Deusen, 50 West Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime and limestone*, from Carntown, Ky., to points in Ohio, for 180 days. Supporting shipper: The Marble Cliff Quarries Co., 2100 Tremont Center, Columbus, OH 43221. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 255 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, OH 43215.

No. MC 64048 (Sub-No. 3 TA), filed August 26, 1971. Applicant: CAPITAL CITY TRANSFER CO., 1295 Johnson Street NE., Post Office Box 7168, Salem, OR 97303. Applicant's representative: Daniel A. Ritter, 200 Pacific Building, Salem, Oreg. 97308. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Newsprint*, from Port Angeles, Wash., and Seattle, Wash., to Salem, Oreg., and from Salem, Oreg., to Port Angeles, Wash., and Seattle, Wash., for 120 days. Supporting shippers: Statesman-Journal Newspapers, 280 Church Street NE., Salem, OR 97301 and Crown Zellerbach, 1500 Southwest First Avenue, Portland, OR 97201. Send protests to: A. E. Odoms, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 450 Multnomah Building, Portland, Oreg. 97204.

No. MC 103993 (Sub-No. 660 TA), filed August 25, 1971. Applicant: MORGAN DRIVE AWAY, INC., 2800 West Lexington Avenue, Elkhart, IN 46514. Applicant's representative: Ralph H. Miller (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles in initial movements, from Columbus, Miss., to points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper: New Dimension Homes, Inc., Post Office Drawer 2327, Fairlane Station, Columbus, MS 39701. Send protests to: Acting District Supervisor John E. Ryden, Bureau of Operations, Interstate Commerce Commission, Room 204, 345 West Wayne Street, Fort Wayne, IN 46802.

No. MC 106644 (Sub-No. 125 TA), filed August 27, 1971. Applicant: SUPERIOR TRUCKING COMPANY, INC., Post Office Box 916, 2770 Peyton Road NW. (30321), Chattahoochee Station, Atlanta, GA 30301. Applicant's representative: Frederick J. Coffman, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Airplane engines, parts, and propellers*, between Burbank and Los Angeles, Calif.; Atlanta, Macon, and Warner Robins Air Force Base, Ga.; Miami, Fla.; New York, N.Y.; and Norfolk, Va. and their respective commercial zones, for 180 days. Supporting shipper: Overseas National Airways (ONA), J. F. Kennedy International Airport, Jamaica, N.Y. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, GA 30309.

No. MC 107012 (Sub-No. 123 TA), filed August 25, 1971. Applicant: NORTH AMERICAN VAN LINES, INC., Post Office Box 988 (Lincoln Highway East and Meyer Road), Fort Wayne, IN 46801. Applicant's representative: Martin A. Weissert (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Expanded cellular foam or sponge*, from Chattanooga, Tenn., to Fort Smith, Ark., Hialeah, Jacksonville, and Lake Wales, Fla.; Americus, Ga.; Chicago, Ill.; Elkhart, and Evansville, Ind., Dubuque, Iowa; Grand Rapids, and Lapeer, Mich.; Minneapolis, Minn.; Newton, Miss.; Cape Girardeau, Monet, Neosha and St. Louis, Mo.; Omaha, Nebr.; Pleasantville, N.J.; Dayton and Middletown, Ohio; Tulsa, Okla.; Pottstown, Pa.; Florence, S.C.; Austin and Dallas, Tex.; and Marshfield, Wis., for 180 days. Supporting shipper: Diamond Shamrock Chemical Co., 610 Euclid Avenue, Cleveland, OH 44114. Send protests to: Acting District Supervisor Ryden, Bureau of Operations, Interstate Commerce Commission, Room 204, 345 West Wayne Street, Fort Wayne, IN 46802.

No. MC 107496 (Sub-No. 819 TA), filed August 26, 1971. Applicant: RUAN TRANSPORT CORPORATION, Post Office Box 855, Des Moines, Iowa 50304, Third and Keosauqua Way, Des Moines, IA 50309. Applicant's representative: H. L. Fabritz (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Resins*, in bulk, in tank vehicles, from the plantsite of Reichhold Chemicals, Kansas City, Kans., to Pueblo and Denver, Colo., for 150 days. Supporting shipper: Reichhold Chemicals, Inc., 3150 Fiberglass Road, Kansas City, KS 66115. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 107515 (Sub-No. 768 TA), filed August 27, 1971. Applicant: REFRIGERATED TRANSPORT CO., INC., Post Office Box 308, 3901 Jonesboro Road SE., Forest Park, GA 30050. Applicant's representative: Paul Daniell, Suite 1600 First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned foodstuffs*, from the plantsites and warehouse facilities utilized by Comstock Foods, Division of Borden, Inc., at Waterloo, Red Creek, Egypt, Rushville, Lyons, Newark, Fairport, and Syracuse, N.Y., to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Virginia, for 180 days. Supporting shipper: Comstock Foods, Division of Borden Foods, Borden, Inc., 1000 South Main Street, Newark, NY 14513. Send protests to: William L. Scroggs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 309, 1252 West Peachtree Street NW., Atlanta, GA 30309.

No. MC 107826 (Sub-No. 6 TA), filed August 26, 1971. Applicant: WILLIAM R. FOWLER, Delsea Drive, Eldora, N.J. 08270. Applicant's representative: Chester A. Zyblut, 1522 K Street NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fish products*, in bulk, from Wildwood, N.J., to points in New York, Pennsylvania, Ohio, Virginia, Delaware, Maryland, Massachusetts, Connecticut, and Rhode Island, for 180 days. Supporting shipper: Haynie Products, Inc., 5010 York Road, Baltimore, MD 21212. Send protests to: Richard M. Regan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 428 East State Street, Room 204, Trenton, NJ 08608.

No. MC 111231 (Sub-No. 174 TA), filed August 26, 1971. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, AR 72764. Applicant's representative: James B. Blair, 111 Holcomb Street, Springdale, AR 72764. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel and iron articles* having prior water transportation, from Fort Smith, Ark., to Paris, Tex., for 180 days. Supporting shipper: Weirton Steel Division, National Steel Corp., Weirton, W. Va. 26062. Send protests to: District Supervisor William H. Land, Jr., Bureau of Operations, Interstate Commerce Commission, 2519 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 112989 (Sub-No. 18 TA), filed August 26, 1971. Applicant: WEST COAST TRUCK LINES, INC., Post Office Box 668, Coos Bay, OR 97420. Applicant's representative: J. G. McLaughlin, 100

Southwest Market Street, Portland, OR 97201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials*, from St. Helens, Oreg., to points in California, for 180 days. Supporting shipper: Kaiser Gypsum Co., Inc., Kaiser Center, 300 Lakeside Drive, Oakland, CA 94604. Send protests to: A. E. Odoms, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, Portland, Oreg. 97204.

No. MC 116073 (Sub-No. 183 TA), filed August 26, 1971. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., Post Office Box 919, 1825 Main Avenue, Moorhead, MN 56560. Applicant's representative: John R. Bagileo, Munsey Building, Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers*, designed to be drawn by passenger automobiles, in initial movements, and (2) *buildings*, complete or in sections, from Middleburg, Pa., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Rhode Island, Vermont, Virginia, and West Virginia, for 180 days. Supporting shipper: Hauser Homes, Inc., 74 Ridge Road, Missleburg, PA 17842. Send protests to: J. H. Ambs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Post Office Box 2340, Fargo, ND 58102.

No. MC 116314 (Sub-No. 19 TA), filed August 26, 1971. Applicant: MAX BINSWANGER TRUCKING, 13846 Alondra Boulevard, Santa Fe Springs, CA 90670. Applicant's representative: Allen L. Cole (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irrgeular routes, transporting: *Cement*, in bulk, from Creal, Calif., to points in Yuma County, Ariz., south of Interstate Highway 10, for 180 days. Supporting shipper: California Portland Cement Co., 612 South Flower Street, Los Angeles, CA 90017. Send protests to: Walter W. Strakosch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 7708 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 133777 (Sub-No. 6 TA), filed August 27, 1971. Applicant: METAL CARRIERS, INC., 400 West Main Street, Dallas, TX 75208. Applicant's representative: Robbie Don Flynt, Post Office Box 5781, Dallas, TX 75222. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap nonferrous metals*, from Dallas, Fort Worth, Marshall, Woodville, and Houston, Tex., to Livia, Ky., with *rejected or returned shipments on return*, for 180 days. NOTE: Carrier does not intend to tack authority. Supporting shipper: Aluminum Service Corp., 123 Byassee Drive, Hazelwood, MO 63042. Send protests to: District Supervisor E. K. Willis, Jr., Interstate Commerce Commission, Bureau of Operations, 1100 Commerce Street, Room 13C12, Dallas, TX 75202.

No. MC 135937 TA, filed August 27, 1971. Applicant: DARYL GRANFIELD, doing business as GRANFIELD TRUCKING, Box 38, Carroll, NE 68723. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed*, from Sioux City, Iowa, to points in Wayne County, Nebr., for 180 days. Supporting shipper: Cargill—Nutrena Feed Division. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 705 Federal Office Building, Omaha, Nebr. 68102.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-13452 Filed 9-10-71;8:52 am]

CUMULATIVE LIST OF PARTS AFFECTED—SEPTEMBER

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during September.

3 CFR

Page

PROCLAMATIONS:
4077 ... 17557
4078 ... 17559

EXECUTIVE ORDERS:
11615 (amended by EO 11617) ... 17813
11617 ... 17813

5 CFR

213 ... 17483, 17484, 17561, 17815, 17816, 17979
550 ... 17816

7 CFR

210 ... 18173
354 ... 17484
701 ... 18289
718 ... 17485
775 ... 17643
792 ... 17561
831 ... 18298
908 ... 17563, 18059
910 ... 17485, 17816, 17979, 18299
931 ... 18059
945 ... 17816
948 ... 18299
958 ... 17817
1004 ... 17491
1050 ... 17492
1079 ... 17817
1106 ... 17492
1421 ... 18300
1446 ... 18060
1802 ... 17818
1803 ... 17832
1804 ... 18062
1814 ... 18069
1863 ... 17833
1864 ... 17833
1865 ... 17840
1866 ... 17841
1867 ... 17843

PROPOSED RULES:
101 ... 17579
271 ... 18213
272 ... 18213
722 ... 18322
724 ... 18198
725 ... 18000
726 ... 18198
728 ... 18322
729 ... 17872
775 ... 18322
906 ... 18001
910 ... 17579
929 ... 17875
932 ... 18085
946 ... 17875
948 ... 18002
966 ... 18095, 18212
993 ... 17579
999 ... 18323
1001 ... 17580
1002 ... 17580
1004 ... 17580
1015 ... 17580, 17586
1133 ... 17588
1421 ... 18323
1464 ... 17874

8 CFR

Page

214 ... 18300

9 CFR

76 ... 17844

10 CFR

2 ... 18173
50 ... 18071, 18301
70 ... 17573
140 ... 17979
170 ... 18173

12 CFR

524 ... 17564
545 ... 17564, 17980

PROPOSED RULES:
9 ... 18082
222 ... 17514

13 CFR

121 ... 17492

PROPOSED RULES:
121 ... 17514

14 CFR

39 ... 17493, 17494, 17847–17849, 18190, 18301, 18302
61 ... 17495
63 ... 17495
71 ... 17495, 17496, 17575, 17643, 17644, 17849, 18076, 18077, 18191–18193, 18302, 18303
73 ... 18193
75 ... 17849
91 ... 17495, 18304
97 ... 17575, 18193
121 ... 17495
123 ... 17495
127 ... 17495
135 ... 17495
208 ... 17644

PROPOSED RULES:
39 ... 17512
71 ... 17513, 17588, 17589, 17653–17655, 17876, 18109, 18110, 18214
73 ... 17876
202 ... 18111
207 ... 17655
208 ... 17655
212 ... 17655
214 ... 17655
372 ... 17655
124 ... 18221

15 CFR

PROPOSED RULES:
7 ... 18095

16 CFR

13 ... 17982–17995
252 ... 18078

17 CFR

Page

PROPOSED RULES:
1 ... 18000

18 CFR

2 ... 17576

PROPOSED RULES:
2 ... 18221
154 ... 18323
157 ... 18323
260 ... 17665

19 CFR

1 ... 18304

PROPOSED RULES:
1 ... 17579
24 ... 17653

21 CFR

135a ... 18078
141a ... 17644
141c ... 17645
146a ... 17644
146c ... 17645
191 ... 17645
420 ... 17646, 18078–18080, 18174, 18175

PROPOSED RULES:
3 ... 18098
27 ... 18098
31 ... 18098
125 ... 18098
146a ... 17653
146e ... 17653
295 ... 17512, 18012

22 CFR

41 ... 17496

24 CFR

4 ... 17496
241 ... 17506
1909 ... 18176
1910 ... 18179
1911 ... 18182
1912 ... 18184
1913 ... 18185
1914 ... 17647, 18185
1915 ... 17648, 18186

26 CFR

PROPOSED RULES:
1 ... 17863, 18012, 18214, 18316
13 ... 18012, 18214

28 CFR

21 ... 17506
51 ... 18186
201 ... 18280

29 CFR

1903 ... 17850
1910 ... 18080
1911 ... 17506

PROPOSED RULES:
12 ... 18007

LIST OF FEDERAL REGISTER PAGES AND DATES—SEPTEMBER

Pages	*Date*	*Pages*	*Date*
17477–17549	Sept. 1	17973–18051	Sept. 8
17551–17636	2	18053–18165	9
17637–17805	3	18167–18281	10
17807–17972	4	18283–18357	11