federal register

SATURDAY, SEPTEMBER 18, 1971

WASHINGTON, D.C.

Volume 36 ■ Number 182

Pages 18629–18705

PART I

(Part II begins on page 18695)

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.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER or the CODE OF FEDERAL REGULATIONS.

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.

Rules and Regulations

Title 7—AGRICULTURE

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

[Tangerine Reg. 41]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905) regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, 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 of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of tangerines, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The regulation hereinafter set forth is appropriate to the available supply and the demand conditions expected to prevail during the specified regulation period; and establishment of such regulation for such period is necessary to provide consumers with tangerines of desirable grades and sizes consistent with (1) the overall quality and size composition of the crop, and (2) improving returns to producers pursuant to the declared policy of the act.

(3) 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 thereof 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; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than September 20, 1971. The Growers Administrative Committee held an open meeting on September 9, 1971, to consider recommendations for a regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; information regarding the provisions of the regulation recommended by the committee has been disseminated among shippers of tangerines grown in the production area, and this section, including the effective time thereof, is identical with the recommendation of the committee; movement is expected to begin on or about the effective time hereof, and it is necessary, in order to effectuate the declared policy of the act, to make this section effective on the date hereinafter set forth so as to provide for the regulation of the handling of tangerines grown in the production area at the start of this marketing season; and compliance with this section will not require any special preparation on the part of persons subject thereto which cannot be completed on or before the effective time hereof.

§ 905.532 Tangerine Regulation 41.

(a) Order: During the period beginning September 20, 1971, through October 17, 1971, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

(1) Any tangerines, grown in the production area, which do not grade at least U.S. No. 1; or

(2) Any tangerines, grown in the production area, which are of a size smaller than 2$^{1}/_{16}$ inches in diameter, except that a tolerance of 10 percent, by count, of tangerines smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in said U.S. Standards for Florida Tangerines.

(b) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order; and terms relating to grade and diameter, as used herein, shall have the same meaning as is given to the respective term in the U.S. Standards for Florida Tangerines (§§ 51.1810–51.1834 of this title).

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

Dated: September 15, 1971.

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

[FR Doc.71-13815 Filed 9-17-71;8:49 am]

[Tangelo Reg. 41]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, 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 of the committees established under the aforesaid marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of tangelos, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The regulation hereinafter set forth is appropriate to the available supply and the demand conditions expected to prevail during the specified regulation period; and establishment of such regulation for such period is necessary to provide consumers with tangelos of desirable grades and sizes consistent with (1) the overall quality and size composition of the crop; and (2) improving returns to producers pursuant to the declared policy of the act.

(3) 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 thereof 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; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than September 20, 1971. The Growers Administrative Committee held an open meeting on September 9, 1971, to consider recommendations for a regulation, in accordance with the said amended marketing agreement and order, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; information regarding the provisions of the regulation recommended by the committee has been disseminated among shippers of tangelos, grown in the production area, and this section, including the effective time thereof, is identical with the recommendation of the committee; movement is expected to begin on or about the effective time hereof, and it is necessary, in order to effectuate the declared policy of the act, to make this section effective on such date, so as to provide so far as practicable for the regulation of the handling of all such tangelos; and compliance with this section will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

§ 905.533 Tangelo Regulation 41.

(a) Order: During the period beginning September 20, 1971, through October 17, 1971, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

(1) Any tangelos, grown in the production area, which do not grade at least U.S. No. 1; or

(2) Any tangelos, grown in the production area, which are of a size smaller than 2$^{2}/_{16}$ inches in diameter, except that a tolerance of 10 percent, by count, of tangelos smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in the U.S. Standards for Florida Oranges and Tangelos.

(b) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order; and terms relating to grade and diameter, as used herein, shall have the same meaning as is given to the respective term in the amended U.S. Standards for Florida Oranges and Tangelos (§§ 51.1140–51.1178 of this title).

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

Dated: September 15, 1971.

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

[FR Doc.71-13814 Filed 9-17-71;8:49 am]

[Lemon Reg. 499]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Size Regulation

Notice was published in the FEDERAL REGISTER issue of August 11, 1971 (36 F.R. 14745) that the Department was giving consideration to a proposed size regulation for lemons grown in Arizona and designated part of California, pursuant to the applicable provisions of 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 Arizona and designated part of California. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The proposed regulation contained in the notice was submitted by the Lemon Administrative Committee, established under said marketing agreement and order to administer the provisions thereof. The notice provided a 30-day period during which interested persons could file data, views, or arguments for consideration in connection with the proposed regulation. None were received. After consideration of all relevant matter presented, including the proposal submitted by said committee and other available information, it is hereby found that the limitation of the handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

The current size regulation, Lemon Regulation 453 (35 F.R. 17527) is effective through November 13, 1971. The regulation hereinafter set forth will continue in effect the same size requirements through September 2, 1972. The regulation will limit the handling of lemons grown in District 1, District 2, or District 3 to those measuring 1.82 inches in diameter or larger. Such regulation is necessary to prevent the handling of lemons, on and after the effective date, of sizes smaller than those herein specified so as to provide consumers with desirable sizes of fruit consistent with (1) the overall size composition of the crop, and (2) improving returns to growers pursuant to the declared policy of the act.

§ 910.799 Lemon Regulation 499.

(a) Order: From November 14, 1971, through September 2, 1972, no handler shall handle any lemons grown in District 1, District 2, or District 3, which are of a size smaller than 1.82 inches in diameter, which shall be the largest measurement at right angles to a straight line running from stem to the blossom end of the fruit: *Provided*, That not to exceed 5 percent, by count, of the lemons in any type of container may measure smaller than 1.82 inches in diameter.

(b) As used in this section "handle", "handled", and "District 1", "District 2", and "District 3" each shall 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 15, 1971, to become effective November 14, 1971.

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

[FR Doc.71-13816 Filed 9-17-71;8:49 am]

[Lemon Reg. 498]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.798 Lemon Regulation 498.

(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 14, 1971.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period September 19 through September 25, 1971, is hereby fixed at 201,000 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 16, 1971.

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

[FR Doc.71-13869 Filed 9-17-71; 8:52 am]

PART 911—LIMES GROWN IN FLORIDA

Subpart—Budget of Expenses and Rate of Assessment

RESERVE

On August 31, 1971, notice was published in the FEDERAL REGISTER (36 F.R. 17444) that consideration was being given to the proposed amendment to the provisions of § 911.209 Expenses and rate of assessment (Subpart—Budget of Expenses and Rate of Assessment; 7

CFR 911.204 and 911.209; 36 F.R. 13583), currently effective pursuant to the applicable provisions of the marketing agreement, as amended and Order No. 911, as amended (7 CFR Part 911; 36 F.R. 14125 and 16570), regulating the handling of limes grown in Florida, effective under applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This notice allowed interested persons 10 days for the submission of written data, views, or arguments pertaining to this proposal. None were submitted.

The amendment would (1) authorize the carryover, in the existing reserve fund, of the committee's unexpended assessment funds for the fiscal year ended March 31, 1971, and (2) correct the designation of § 911.209 by changing it to § 911.210.

After consideration of all relevant matter presented, including that in the aforesaid notice which was submitted by the Florida Lime Administrative Committee (established pursuant to said amended marketing agreement and order as the agency to administer the provisions thereof), it is hereby found that the amendment, as hereinafter set forth, of said provisions dealing with expenses and rate of assessment, is in accordance with the said amended marketing agreement and order and will tend to effectuate the declared policy of the act. Therefore, § 911.209 Expenses and rate of assessment (36 F.R. 13583) is amended to read as follows:

§ 911.209 Expenses and rate of assessment.

* * * * *

(c) *Reserve.* Unexpensed assessment funds in excess of expenses incurred during the fiscal year ended March 31, 1971, shall be carried over as a reserve in accordance with the applicable provisions of §§ 911.42 and 911.204 (36 F.R. 16570).

It is hereby further found that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) notice of proposed rule making concerning this amendment was published in the FEDERAL REGISTER on August 31, 1971 (36 F.R. 17444), and no objection to this amendment was received, (2) the recommendation and supporting information for this amendment were submitted to the Department after an open meeting of the Administrative Committee on June 23, 1971, which was held to consider recommendation for such amendment, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; (3) the provisions of this amendment are identical with the aforesaid recommendation of the committee; (4) no advance preparation for such effective date will be required of handlers for compliance therewith; and (5) no useful purpose would be served by postponing such effective date.

Terms used in this section shall have the same meaning as when used in said amended marketing agreement and order.

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

Dated September 15, 1971, to become effective September 27, 1971.

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

[FR Doc.71-13817 Filed 9-17-71;8:49 am]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

PART 1446—PEANUTS

Subpart—1971 Crop Peanut Warehouse Storage Loans and Sheller Purchases

Correction

In F.R. Doc. 71-13150 appearing at page 18060 in the issue for Thursday, September 9, 1971, the following changes should be made:

1. The word "farmers" in the third line of § 1446.41 should be "peanuts".

2. The word "be" should be inserted between "shall" and "$1" in § 1446.44(e).

3. In the table for § 1446.53 the heading under "Percent minor defects" that reads "2.5–2.4" should read "2.5–2.9".

Title 12—BANKS AND BANKING

Chapter VII—National Credit Union Administration

MISCELLANEOUS AMENDMENTS TO CHAPTER

Pursuant to the authority conferred by section 120, 73 Stat. 635, 12 U.S.C. 1766, certain parts of Chapter VII (12 CFR, Chapter VII) are amended as set forth below.

These amendments reflect certain technical changes instituted by Public Laws 91–206, 84 Stat. 49, and 91–468, 84 Stat. 994. No substantive changes have been made other than those required by these statues.

HERMAN NICKERSON, JR.,
Administrator.

SEPTEMBER 14, 1971.

1. Whenever the word "Director" is used, it is changed to "Administrator". This change is applicable in Part 701, §§ 701.3(a), 701.4, 701.5(a), 701.5(b), 701.7(a), 701.7(b), 701.7(c), 701.7(d), 701.8, 701.12(c), 701.13(b), 701.13(c), 701.18, 701.28(a); in Part 702, §§ 702.1, 702.2(c)(1), 702.2(c)(3), 702.3(c); in Part 706, § 706.9(a); in Part 707, §§ 707.1(b), 707.1(d), 707.4(a), 707.4(b), 707.6(b), 707.7(a), 707.7(c), 707.7(d); in Part 708, §§ 708.3, 708.4, 708.5; in Part 709, §§ 709.6, 709.7; in Part 710, § 710.14; in Part 711, §§ 711.2, 711.5, 711.6; in Part 715, §§ 715.1, 715.2, 715.3, 715.4, 715.6.

2. Whenever the words "Regional Representative" are used, they are changed to "Regional Director." This change is applicable in Part 701, §§ 701.3(a), 701.5(a), 701.5(b), 701.6(d), 701.11, 701.12(a), 701.13(c), 701.26, 701.27(c), 701.28(b); in Part 702, §§ 702.2(c)(2), 702.2(c)(3), 702.3(c); in Part 706, §§ 706.2, 706.4, 706.5, 706.7, 706.8(a), 706.8(b); in Part 707, § 707.6(a); in Part 708, §§ 708.3, 708.4; in Part 709, §§ 709.2, 709.3, 709.5, 709.6, 709.8; in Part 710, §§ 710.2, 710.6, 710.7, 710.8, 710.9(a), 710.11; in Part 711, §§ 711.4, 711.7; in Part 715, §§ 715.2, 715.3, 715.5; in Part 720, § 720.2(c).

3. Whenever the words "Bureau of Federal Credit Unions" are used, they are changed to "National Credit Union Administration". This change is applicable in Part 701, §§ 701.5(a), 701.6(b), 701.6(c), 701.6(d); in Part 710, §§710.2, 710.12(a).

4. Whenever the word "Bureau" is used, it is changed to "Administration". This change is applicable in Part 701, §§ 701.5(a), 701.5(b), 701.6(a)(1), 701.6(b), 701.6(d), 701.7(a), 701.11, 701.13(a), 701.14, 701.14(a), 701.14(b), 701.14(c), 701.14(d), 701.14(e), 701.15, 701.16, 701.17, 701.18, 701.26, 701.27(b); in Part 702, § 702.2(c); in Part 706, §§ 706.1, 706.2, 706.4, 706.5, 706.8(b), 706.9(a), 706.9(b); in Part 707, §§ 707.1, 707.2(a), 707.2(b); in Part 709, §§ 709.2, 709.5, 709.8; in Part 710, §§ 710.12(a), 710.15; in Part 711, § 711.4; in Part 715, §§ 715.1, 715.2, 715.3; in Part 720, § 720.1.

5. Whenever the letters "BFCU" are used, they are changed to "NCUA". This change is applicable in Part 701, §§ 701.14(a), 701.14(f), 701.14(h), 701.14(i), 701.15(a), 701.15(b), 701.15(c), 701.15(d), 701.15(e), 701.17; in Part 720, §§ 720.2(b), 720.2(c), 720.3, 720.4(a).

6. Whenever the number "3" is used as the first digit in reference to a particular section of this chapter, it is changed to the number "7". This change is applicable in Part 701, §§ 701.8, 701.16, 701.25, 701.26, 701.27(b), 701.29(b)(2); in Part 702, § 702.3(a); in Part 707, §§ 707.2(a), 707.2(b); in Part 709, §§ 709.2, 709.3, 709.4, 709.6, 709.7; in Part 710, § 710.8; in Part 711, § 711.4; in Part 715, §§ 715.3, 715.4; in Part 720, § 720.2(b).

7. Paragraph (b) of § 701.3 is changed to read as follows:

(b) Copies of the bylaws and of the standard amendments thereto are made available as set forth in §§ 701.14 (e) and (f).

8. In paragraph (a)(3)(i) of § 701.6, change "FCU–544" to "NCUA 8022."

9. In paragraph (b) of § 701.6, change "FCU–511" to "NCUA 1300".

10. In § 701.11, change "FCU–2" to "NCUA 4501".

11. In paragraph (a) of § 701.12, change "FCU–545" to "NCUA 8023".

12. In paragraph (a) of § 701.13, change "FCU–521" to "NCUA 5300".

13. In paragraph (a) of § 701.14, change "FCU–543" to "NCUA 8021".

14. In paragraph (b) of § 701.14, change "FCU–544" to "NCUA 8022".

15. In paragraph (c) of § 701.14, change "FCU–545" to "NCUA 8023".

16. In paragraph (d) of § 701.14, change "FCU–548" to "NCUA 8024".

17. In paragraph (e) of § 701.14, change "FCU–535" to "NCUA 8001".

18. In paragraph (f) of § 701.14, change the italicized language to "Federal Credit Union Standard Amendments and Guidelines" and change "FCU–522" to "NCUA 8028".

19. In paragraph (g) of § 701.14, change "FCU–505" to "NCUA 8007".

20. In paragraph (h) of § 701.14, change "FCU–539" to "NCUA 8009."

21. In paragraph (i) of § 701.14, change "FCU–540" to "NCUA 8032".

22. In paragraph (b) of § 701.15, change "FCU–561" to "NCUA 8000" and change the italicized language to "Annual Report of the Federal Credit Union Program".

23. In paragraph (d) of § 701.15, change "FCU–560" to "NCUA 8003."

24. Paragraph (e) of § 701.15 is deleted; paragraph (f) of § 701.15 is redesignated (e) and change "FCU–541" to "NCUA 8020".

25. In § 701.17, delete the last sentence and add the following:

"The administration is not required to make available names and addresses of Federal credit unions arranged in any manner other than by State."

26. In paragraph (b)(5) of § 701.22, change "and additional" to "any additional".

27. In paragraph (b)(2) of § 701.29, change "§ 702.3" to "§ 702.2 and § 702.3".

28. Paragraph (a) of § 702.2 is revised to read as follows:

(a) Immediately before the payment of each dividend, the treasurer shall determine the gross earnings of the credit union. From this amount there shall be transferred to a reserve to be known as the Regular Reserve, as of the end of each dividend period, (1) 10 per centum of the gross income until the Regular Reserve shall equal 7½ per centum of the total of outstanding loans and risk assets, then (2) 5 per centum of the gross income until the Regular Reserve shall equal 10 per centum of the total of outstanding loans and risk assets: *Provided, however,* That whenever the Regular Reserve falls below 10 per centum or 7½ per centum of the total of outstanding loans and risk assets, as the case may be, it shall be replenished by regular contributions in such amounts as may be needed to maintain the reserve goals of 7½ per centum or 10 per centum. The treasurer shall also transfer to the Regular Reserve recoveries on items previously charged to the Regular Reserve.

29. In paragraph (a) of § 702.3, change "net earnings" to "gross earnings".

30. In paragraph (a) of § 706.8, insert the words "to be" after the word "continue" in the last sentence.

31. In paragraph (a)(2) of § 707.3, change "section 15 of the Act" to "section 114 of the Act".

32. In paragraph (a)(7) of § 707.3, after the word "Corporation" add the following: "and shares or accounts in mutual savings banks insured by the Federal Deposit Insurance Corporation;".

33. In § 715.5, change "section 21" to "section 120".

34. Paragraph (a) of § 720.2 is revised as follows:

(a) The offices of the Regional Directors are designated as Information Centers for the National Credit Union Administration. The locations are listed in the Administration's Annual Report of the Federal Credit Union Program (see § 701.15(b) of this chapter).

35. In paragraph (c) of § 702.2, change "Director of the Division of" to "Assistant Administrator for".

36. In § 720.3, delete the last sentence.

37. In paragraph (a) of § 720.4, change "Commissioner of Social Security" to "Administrator".

38. In paragraph (b) of § 720.4, change "Commissioner" to "Administrator" and change "Department" to "Administration".

39. In paragraph (c) of § 720.4, change "Commissioner" to "Administrator".

40. In § 720.5, change "Department's" to "Administration's".

[FR Doc.71–13818 Filed 9–17–71;8:49 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airworthiness Docket No. 71–WE–18–AD; Amdt. 39–1291]

PART 39—AIRWORTHINESS DIRECTIVES

Douglas Models A–26B, A–26C Airplanes

Amendment 741 Part 507 (29 F.R. 7238), AD 64–12–3, paragraph (b)(4)(ii) requires inspection of the inner surface of certain bolt holes by eddy current technique using the equipment and following procedures described by Magnaflux Corp. Bulletin No. LA–002–RBW, "Operating Instructions for Magnatest ED–600" dated April 23, 1964, on Douglas Models A–26B (B–26B) and A–26C (B–26C) Airplanes, including those certificated under Part 8 of the Civil Air Regulations. After issuing Amendment 741, the agency determined that:

(1) Magnaflux Corp. has marketed improved equipment which some operators now have available for use in this application.

(2) The Magnaflux Corp. has satisfactorily demonstrated the new equipment using associated instruction procedures to detect existing cracks.

Therefore, the AD is being amended to provide for the use of alternate equipment and procedures.

Since this amendment provides an alternative means of compliance, and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 741 Part 507 (29 F.R. 7238), AD 64–12–3, is amended by amending paragraph (b)(4)(ii) to read:

"Remove the three tension bolts (nominal ⅛-inch diameter) which pass through each front spar lower cap at approximately Wing Station 140 and front spar fitting, P/N 4190305, and nacelle attach fitting, P/N 4123165. Support the wings so as to remove all weight from the landing gear, remove or support the engines and remove the oil tanks. Thoroughly inspect the inner surface of each bolt hole by eddy current technique using the equipment and following the procedures described by Magnaflux Corp. Bulletin No. LA–002–RBW, "Operating Instructions for Magnatest ED–600" dated April 23, 1964, or Magnaflux Corp. Specification LA–RAE–7170, "Operating Instructions for Magnatest ED–520 for Bolt Hole Inspection", dated August 6, 1971. The changes in meter readings as described in Bulletin No. LA–002–RBW or in Specification LA–RAE–7170 shall be used to detect any evidence of cracking in any of the bolt holes, with particular attention being directed to both edges of each hole."

NOTE: Information regarding this bulletin and eddy current equipment is available from any local office of the Magnaflux Corp.

This amendment becomes effective September 21, 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 Los Angeles, Calif., on September 8, 1971.

LYNN L. HINK,
Acting Director,
FAA Western Region.

[FR Doc.71–13766 Filed 9–17–71;8:47 am]

[Docket No. 11415; Amdt. 39–1295]

PART 39—AIRWORTHINESS DIRECTIVES

Hawker Siddeley Model DH–114 "Heron" Airplanes

There has been a report of a case in which an emergency escape hatch could not be opened from the outside on a Hawker Siddeley Model DH–114 "Heron" airplane. Rotation of the escape hatch lock by the external handle could not be accomplished because the fasteners which secured the locking mechanism to the escape hatch protruded and prevented rotation of the inner handle when it was folded in the stowed position. Since this condition is likely to exist or develop in other airplanes of the same type design, an airworthiness directive is being issued to require a check of the emergency escape hatches to ensure that they can be opened outside the airplane with the inner handle folded in the stowed position and replacement of the protruding fasteners with fasteners which will not interfere with the rotation of the inner handle when it is folded in the stowed position.

In view of the possible seriousness of being unable to open the emergency

escape hatch from the outside, a situation exists that requires immediate adoption of this regulation and it is found that notice and public procedure 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 (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is being amended by adding the following new airworthiness directive:

HAWKER SIDDELEY. Applies to Model DH-114 "Heron" airplanes.

Compliance is required as indicated.

To ensure that the emergency escape hatches (P/N's 14 FS.2991A, 4 FS.835A/1, or 4 FS.835A/2) can be opened from outside the airplane accomplish the following:

(a) Before further flight check the operation of each escape hatch lock mechanism by turning the external handle with the internal handle in the stowed position. The check required by this paragraph may be performed by the pilot.

(b) If an escape hatch lock mechanism is found to be inoperable during the check required by paragraph (a), before further flight, except that the airplane may be flown in accordance with FAR 21.197 to a base where the repairs can be performed, secure the inoperable lock mechanism to the escape hatch in accordance with Hawker Siddeley Aviation, Ltd., Technical News Sheet Series: Heron (114) No. F.16, Issue 1, dated March 15, 1971, or an FAA-approved equivalent.

(c) Within the next 100 hours' time in service after the effective date of this AD, unless already accomplished, secure the lock mechanisms to each escape hatch in accordance with Hawker Siddeley Aviation, Ltd., Technical News Sheet Series: Heron (114) No. F.16, Issue 1, dated March 15, 1971, or an FAA-approved equivalent.

This amendment becomes effective September 23, 1971.

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

Issued in Washington, D.C., on September 14, 1971.

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

[FR Doc.71-13767 Filed 9-17-71;8:47 am]

[Docket No. 10470; Amdt. 39-1296]

PART 39—AIRWORTHINESS DIRECTIVES

Sud Aviation Model SE.210 MK VI-R "Caravelle" Airplanes

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring installation of a holding relay in the elevator servodyne jam warning circuit on S.N.I.A.S., Sud Model SE.210 MK VI-R "Caravelle" airplanes was published in the FEDERAL REGISTER, 35 F.R. 12284.

Interested persons have been afforded an opportunity to participate in the making of the amendment. The only comment received objected to the issuance of the amendment in view of commentator's service experience with its elevator system servodyne. The FAA has determined that, notwithstanding commentator's service experience with its elevator system servodyne, a potentially hazardous situation exists. Commentator also contends that an undetected jammed servo valve would not cause loss of control of the elevator dual servo actuator because the operable side of the actuator would perform all the required work, including any which resulted from failure to remove hydraulic power from the jammed servo valve. Although a jammed servo valve might not cause complete loss of control, failure to remove hydraulic power from a jammed servo valve could result in a hazardous degree of stiffness in the elevator dual servo actuator. Commentator further stated that the present jam warning circuit provides a continuous light if a servo valve is jammed and that installing the proposed holding relay would result in an increase in time between the occurrence of a jam and the institution of corrective action because an added procedure would be required to determine if a continuous light indicates a jam or is the extension of a "flash" warning caused by sudden control column movement. It should be noted that some "flash" type warnings indicate a need for corrective action and that, with the present jam warning circuit, they are of too short a duration to permit the crew to isolate the faulty system; furthermore, the additional procedures required by the installation of the proposed holding relay apply only in situations where the warning is not clear and should not materially increase the time between the occurrence of a jam and the institution of corrective action. With respect to commentator's belief that confidence in the warning indicators would be lessened due to the increased frequency of warning signals which would result from the installation of the proposed holding relay, it should be noted that there should be no increase in the number of warning indications, only the duration of the warning indication is affected.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

SUD AVIATION. Applies to Sud Model SE.210, MK VI-R "Caravelle" airplanes.

Within the next 500 hours' time in service after the effective date of this AD, unless already accomplished, incorporate S.A. Modification 1592 by installing a holding relay in the elevator servodyne jamming warning circuit in accordance with Sud Service-Caravelle Bulletin No. 27-218 at Revision 4, dated March 27, 1970, or an FAA-approved equivalent.

This amendment becomes effective October 18, 1971.

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

Issued in Washington, D.C., on September 14, 1971.

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

[FR Doc.71-13768 Filed 9-17-71;8:47 am]

[Airspace Docket No. 71-SW-31]

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

Designation of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to designate controlled airspace in the vicinity of Port Lavaca, Tex.

On August 7, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 14659), stating the Federal Aviation Administration proposed to designate a 700-foot transition area at Port Lavaca, Tex.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. All comments received were favorable.

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 added:

PORT LAVACA, TEX.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Calhoun County Airport (latitude 28°39'-12" N., longitude 96°40'56" W.) and within 2.5 miles each side of the Palacios VORTAC 233° radial extending from the 5-mile radius area to 16 miles southwest of the VORTAC.

(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 Fort Worth, Tex., on September 9, 1971.

R. V. REYNOLDS,
Acting Director, Southwest Region.

[FR Doc.71-13772 Filed 9-17-71;8:48 am]

[Airspace Docket No. 71-SW-41]

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 controlled airspace in the vicinity of Flippin, Ark.

On August 7, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 14659), stating the Federal Aviation Administration proposed to alter the Flippin, Ark., 700-foot transition area.

Interested persons were afforded an opportunity to participate in the rule

making through submission of comments. All comments received were favorable.

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 Flippin, Ark., transition area is amended to read:

FLIPPIN, ARK.

That airspace extending upward from 700 feet above the surface within a 9.5-mile radius of the Flippin Municipal Airport (latitude 36°17'30" N., longitude 92°35'30" W.); within 3.5 miles each side of the Flippin VOR 086° radial extending from the Flippin Municipal Airport 9.5-mile-radius area to 8.5 miles east of the VOR; within an 8-mile radius of Mountain Home Municipal Airport (latitude 36°22'00" N., longitude 92°28'00" W.); and within 3.5 miles each side of the Flippin VOR 172° radial extending from the Mountain Home Municipal Airport 8-mile-radius area to 8.5 miles south of the VOR.

(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 Fort Worth, Tex., on September 9, 1971.

R. V. REYNOLDS,
Acting Director, Southwest Region.

[FR Doc.71-13773 Filed 9-17-71;8:48 am]

[Airspace Docket No. 71-EA-91]

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

Designation of Transition Area

On page 14272 of the FEDERAL REGISTER for August 3, 1971, the Federal Aviation Administration published a proposed regulation which would designate a Pennington Gap, Va., transition area.

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

In view of the foregoing, the proposed regulation is hereby adopted, effective 0901 G.m.t., November 11, 1971.

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

Issued in Jamaica, N.Y., on September 7, 1971.

GEORGE M. GARY,
Director, Eastern Region.

1. Amend § 71.181 of Part 71, Federal Aviation Regulations, so as to designate a Pennington Gap, Va., 700-foot floor transition area as follows:

PENNINGTON GAP, VA.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the center, 36°44'33" N., 83°01'50" W. of Lee County Airport, Pennington Gap, Va.

[FR Doc.71-13769 Filed 9-17-71;8:47 am]

[Airspace Docket No. 71-EA-96]

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

Designation of Transition Area

On page 14272 of the FEDERAL REGISTER for August 3, 1971, the Federal Aviation Administration published a proposed regulation which would designate a Farmville, Va., transition area.

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

In view of the foregoing, the proposed regulation is hereby adopted, effective 0901 G.m.t., November 11, 1971.

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

Issued in Jamaica, N.Y., on September 7, 1971.

GEORGE M. GARY,
Director, Eastern Region.

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a Farmville, Va., 700-foot floor transition area as follows;

FARMVILLE, VA.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center, 37°21'22" N., 78°26'16" W. of Farmville Municipal Airport, Farmville, Va.

[FR Doc.71-13770 Filed 9-17-71;8:47 am]

[Airspace Docket No. 71-EA-109]

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

Designation of Transition Area

On page 14272 of the FEDERAL REGISTER for August 3, 1971, the Federal Aviation Administration published a proposed regulation which would designate a Galax, Va., transition area.

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

In the FEDERAL REGISTER of August 3, 1971, the name of the airport was incorrectly published to read "Twin City Airport" and is hereby corrected to read "Twin County Airport."

Since the foregoing is editorial in nature and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the rule may be made effective in less than 30 days.

In view of the foregoing, the proposed regulation is hereby adopted, effective 0901 G.m.t., November 11, 1971.

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

Issued in Jamaica, N.Y., on September 7, 1971.

GEORGE M. GARY,
Director, Eastern Region.

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

GALAX, VA.

That airspace extending upward from 700 feet above the surface within a 10.5-mile radius of the center, 36°45'52" N., 80°49'20" W. of Twin County Airport; and within 4.5 miles each side of the Pulaski VORTAC 196° radial, extending from the 10.5-mile radius area to 8 miles south of the VORTAC.

[FR Doc. 71-13771 Filed 9-17-71;8:48 am]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of International Commerce, Department of Commerce

SUBCHAPTER B—EXPORT REGULATIONS

[13th Gen. Rev. of the Export Regulations, Amdt. 26]

PART 373—SPECIAL LICENSING PROCEDURES

Exclusion of Commodities

Part 373 is amended as set forth below.

(Sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023; E.O. 10945, 26 F.R. 4487, 3 CFR 1959-63 Comp.; E.O. 11038, 27 F.R. 7003, 3 CFR 1959-63 Comp.)

Effective date: September 17, 1971.

RAUER H. MEYER,
Director,
Office of Export Control.

In Supplement No. 1 to Part 373, Commodities Excluded from Certain Special License Procedures, the entry designated 62(7)(8) is deleted, new entries 62(7) and 62(8) are established, and the footnotes alongside entries 662(1) and 663 (13) and (14) are amended to read as follows:

62(7) Tires, of a kind specially constructed to be bullet proof or run when deflated.
62(8) Other aircraft tires and inner tubes.[1]
662(1) [2] High temperature refractory, brick and similar shapes, cement, mortar, and other refractory construction materials, n.e.c., containing 97 percent or more by weight of beryllium oxide.
663 (13) [2] (14) [2] Crucibles and refractory products other than refractory construction materials, n.e.c., containing 97 percent or more by weight of beryllium oxide.

[FR Doc.71-13775 Filed 9-17-71;8:50 am]

---

[1] Excluded from Project license and Distribution license procedures only.

[2] Other commodities listed under this Export Control Commodity Number on the Commodity Control List are not excluded from these special license procedures.

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

[Release 34-9310]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Initiation or Resumption of Quotations by a Broker or Dealer Who Lacks Certain Information

The Securities and Exchange Commission today announced the adoption of Rule 15c2-11 (17 CFR 240.15c2-11) under the Securities Exchange Act of 1934 (the Act). In general, Rule 15c2-11 prohibits the initiation or resumption of quotations respecting a security by a broker or dealer who lacks specified information concerning the security and the issuer. The effective date of the rule is December 13, 1971.

On June 24, 1970, in Securities Exchange Act Release No. 8909 and in the FEDERAL REGISTER for June 30, 1970, at 35 F.R. 10597, the Commission published its proposal to adopt Rule 15c2-11. It has considered the comments and suggestions it received in response to that proposal and now adopts the rule in the form set forth below.

The Commission has discussed on an earlier occasion the practices of some companies and persons in connection with the distribution of the securities of "shell" corporations by means of the "spin off" device.[1] These practices have often resulted in the initiation of market making activities by some brokers and dealers by the submission of quotations, in most cases, at a time when no financial or other information concerning the security or the issuer was available to either the brokers and dealers submitting the quotations or to public investors induced to purchase the security. Frequently, there was a substantial increase in the market price of the securities due, in large measure, to the fraudulent and manipulative activities of the persons involved.

Although the practices discussed in Securities Act Release No. 4982 involved the securities of "shell" corporations, the fraudulent and manipulative potential inherent in those situations also exists when a broker or dealer submits quotations concerning any infrequently traded security in the absence of certain information.

Therefore, to protect public investors against these occurrences, Rule 15c2-11 (subject to certain exemptions) prohibits a broker or dealer from submitting any quotation (as defined) for any security to any quotation medium unless (a) a registration statement has become effective with respect to such security within 90 days prior to the time of submission or publication of the quotation, and was not subject to a stop order at the time of such submission or publication, and unless the broker or dealer has in his records a copy of the prospectus, or (b) a notification under Regulation A has become effective with respect to such security within 40 days prior to the time of submission or publication of the quotation, and was not the subject of a suspension order at the time of such submission or publication, and unless the broker or dealer has in his records a copy of the offering circular, or (c) the issuer is required to file reports pursuant to section 13 or 15(d) of the Act, or is the issuer of a security covered by section 12 (g)(2) (B) or (G) of the Act, the broker or dealer has a reasonable basis for believing that the issuer is current in filing the reports or statements required, and the broker or dealer has in his records a copy of the issuer's most recent annual report and any other reports required to be filed at regular intervals which were filed after such annual report, or (d) the broker or dealer has in his records specified information, which he must make reasonably available to any person expressing an interest in entering into a transaction in that security with him, and which he has no reasonable basis for believing is not true and correct, and which was obtained by him from sources which he has a reasonable basis for believing are reliable. As that term is used in the rule, the requirement that the broker or dealer "make reasonably available" the specified information would mean that the broker or dealer must furnish the information to the interested person at the cost of reproduction, if for any reason it is impractical to provide the information in any other manner. The rule also requires the broker or dealer to send to the interdealer quotation system, at least 2 days before the submission or publication of the quotation, the specified information in a form prescribed by such system.

The rule also requires that the broker or dealer keep, with respect to any quotation which is witin the provisions of the rule, records regarding all the circumstances surrounding the quotation, including the identity of the persons for whom the quotation is submitted or published and any information given the broker or dealer by such persons. All information required to be kept by the broker or dealer is to be maintained and preserved as part of his records for the periods specified in Rule 17a-4 (17 CFR 240.17a-4) of the Act.

The rule exempts from its provisions the submission or publication of a quotation respecting a security admitted to trading on a national securities exchange which is traded on such an exchange on the same day or on the day before the day of submission or publication. The rule also exempts a security which has been the subject of both bid and ask quotations at specific prices at least 12 days within the previous 30 calendar days with no more than four business days in succession without such a quotation.[2] Some of the comments received requested the Commission to exempt from the provisions of the rule certain situations which, it was claimed, are not within the basic purpose of the rule. There is a general provision exempting the publication or submission of any quotation which the Commission may exempt, either unconditionally or upon specified terms and conditions, as not constituting a fraudulent, manipulative or deceptive practice comprehended within the purpose of the rule. Those persons who believe that the submission or publication of their quotations would not contravene the purpose of this rule are invited to make a written submission stating their reasons and specific facts supporting that belief, in order to afford the Commission an opportunity to determine whether to apply this exemptive provision in those situations.

It should be emphasized that this rule is not intended to, and does not, excuse brokers and dealers from their duty to comply with applicable registration and other antifraud provisions of the Federal securities laws and Commission rules, including their duty to make appropriate inquiry. In this connection, brokers and dealers should be aware that the submission or publication of a quotation at a price which does not bear a reasonable relationship to the nature and scope of the issuer's business or its financial status or experience, may constitute a part of a fraudulent or manipulative scheme.

Commisson action. The Securities and Exchange Commission, acting pursuant to the provisions of the Securities Exchange Act of 1934, and more particularly sections 15(c)(2), 17(a), and 23(a) thereof, and deeming it in the public interest and for the protection of investors, hereby amends Part 240 of Chapter II of Title 17 of the Code of Federal Regulations by adopting § 240.15c2-11 as set forth below, effective December 13, 1971.

§ 240.15c2-11 Initiation or resumption of quotations without specific information.

(a) It shall be a fraudulent, manipulative, and deceptive practice within the meaning of section 15(c)(2) of the Act, for a broker or dealer to publish any quotation for a security or, directly or indirectly, to submit any such quotation for publication, in any quotation medium (as defined in this section) unless:

(1) The issuer has filed a registration statement under the Securities Act of 1933 which became effective less than 90 calendar days prior to the day on which such broker or dealer publishes or submits the quotation to the quotation

[1] Securities Act Release No. 4982, July 2, 1969, and FEDERAL REGISTER for July 15, 1969, at 35 F.R. 11581.

[2] It should be noted that this exemption provision requires prior quotations at the specified frequency for the period immediately preceding the broker's or dealer's submission or publication of his quotation. Thus, the exemption does not apply if at any time the market for the security in the previous 30 days has not met the specified conditions.

medium: *Provided*, That such registration statement has not thereafter been the subject of a stop order which is still in effect when the quotation is published or submitted, and such broker or dealer has in his records a copy of the prospectus specified by section 10(a) of the Securities Act of 1933; or

(2) The issuer has filed a notification under Regulation A under the Securities Act of 1933 which became effective less than 40 calendar days prior to the day on which such broker or dealer publishes or submits the quotation to the quotation medium: *Provided*, That the offering circular provided for under Regulation A has not thereafter become the subject of a suspension order which is still in effect when the quotation is published or submitted, and such broker or dealer has in his records a copy of such offering circular; or

(3) (i) The issuer is required to file reports pursuant to section 13 or 15(d) of the Act, or is the issuer of a security covered by section 12(g)(2) (B) or (G) of the Act, and

(ii) The broker or dealer has a reasonable basis for believing that the issuer is current in filing the reports required to be filed at regular intervals pursuant to section 13 or 15(d) of the Act, or, in the case of insurance companies exempted from section 12(g) of the Act by section 12(g)(2)(G) thereof, the annual statement referred to in section 12(g)(2)(G)(i) of the Act; and

(iii) The broker or dealer has in his records the issuer's most recent annual report filed pursuant to section 13 or 15(d) of the Act, or the annual statement in the case of an insurance company not subject to section 12(g) of the Act, together with any other reports required to be filed at regular intervals under such provisions of the Act which have been filed by the issuer after such annual report or annual statement; or

(4) Such broker or dealer has in his records, and shall make reasonably available upon request to any person expressing an interest in a proposed transaction in the security with such broker or dealer, the following information (which shall be reasonably current in relation to the day the quotation is submitted), which he has no reasonable basis for believing is not true and correct or reasonably current, and which was obtained by him from sources which he has a reasonable basis for believing are reliable: (i) The exact name of the issuer and its predecessor (if any); (ii) the address of its principal executive offices; (iii) the state of incorporation, if it is a corporation; (iv) the exact title and class of the security; (v) the par or stated value of the security; (vi) the number of shares or total amount of the securities outstanding as of the end of the issuer's most recent fiscal year; (vii) the name and address of the transfer agent; (viii) the nature of the issuer's business; (ix) the nature of products or services offered; (x) the nature and extent of the issuer's facilities; (xi) the name of the chief executive officer and members of the board of directors; (xii) the issuer's most recent balance sheet and profit and loss and retained earnings statements; (xiii) similar financial information for such part of the 2 preceding fiscal years as the issuer or its predecessor has been in existence; (xiv) whether the broker or dealer or any associated person is affiliated, directly or indirectly with the issuer; (xv) whether the quotation is being published or submitted on behalf of any other broker or dealer, and, if so, the name of such broker or dealer; and (xvi) whether the quotation is being submitted or published directly or indirectly on behalf of the issuer, or any director, officer or any person, directly or indirectly the beneficial owner of more than 10 percent of the outstanding units or shares of any equity security of the issuer, and, if so, the name of such person, and the basis for any exemption under the federal securities laws for any sales of such securities on behalf of such person. If such information is made available to others upon request pursuant to this subparagraph, such delivery, unless otherwise represented, shall not constitute a representation by such broker or dealer that such information is true and correct, but shall constitute a representation by such broker or dealer that the information is reasonably current in relation to the day the quotation is submitted, that he has no reasonable basis for believing the information is not true and correct, and that the information was obtained from sources which he has a reasonable basis for believing are reliable.

(b) With respect to any security the quotation of which is within the provisions of this section, the broker or dealer submitting or publishing such quotation shall maintain in his records information regarding all circumstances involved in the submission or publication of such quotation, including the identity of the person or persons for whom the quotation is being submitted or published and any information regarding the transaction provided to the broker or dealer by such person or persons.

(c) The broker or dealer shall maintain in writing as part of his records the information described in paragraphs (a) and (b) of this section, and any other information (including adverse information) regarding the issuer which comes to his knowledge or possession before the publication of submission of the quotation, and preserve such records for the periods specified in § 240.17a–4.

(d) For any security of an issuer included in paragraph (a)(4) of this section, the broker or dealer submitting the quotation shall furnish to the interdealer quotation system (as defined in paragraph (e)(1) of this section), in such form as such system shall prescribe, at least 2 days before the quotation is published or submitted, the information regarding the security and the issuer which such broker or dealer is required to maintain pursuant to said paragraph (a)(4) of this section.

(e) For purposes of this section:

(1) "Quotation medium" shall mean any "interdealer quotation system" or any publication or electronic communications network or other device which is used by brokers or dealers to make known to others their interest in transactions in any security, including offers to buy or sell at a stated price or otherwise, or invitations of offers to buy or sell.

(2) "Interdealer quotation system" shall mean any system of general circulation to brokers or dealers which regularly disseminates quotations of identified brokers or dealers.

(3) Except as otherwise specified in this section, "quotation" shall mean any bid or offer at a specified price with respect to a security.

(f) The provisions of this section shall not apply to:

(1) The publication or submission of a quotation respecting a security admitted to trading on a national securities exchange and which is traded on such an exchange on the same day as, or on the business day next preceding, the day the quotation is published or submitted.

(2) The publication or submission of a quotation for securities of foreign issuers exempt from section 12(g) of the Act by reason of compliance with the provisions of § 240.12g3–2(b).

(3) The publication or submission of a quotation respecting a security which has been the subject of both bid and ask quotations in an inter-dealer quotation system at specified prices on each of at least 12 days within the previous 30 calendar days, with no more than 4 business days in succession without such a two-way quotation.

(g) The requirement in paragraph (a)(4) of this section that the information with respect to the issuer be "reasonably current" will be presumed to be satisfied, unless the broker or dealer has information to the contrary, if:

(1) The balance sheet is as of a date less than 16 months before the publication or submission of the quotation, the statements of profit and loss and retained earnings are for the 12 months preceding the date of such balance sheet, and if such balance sheet is not as of a date less than 6 months before the publication or submission of the quotation, it shall be accompanied by additional statements of profit and loss and retained earnings for the period from the date of such balance sheet to a date less than 6 months before the publication or submission of the quotation.

(2) Other information regarding the issuer specified in paragraph (a)(4) of this section is as of a date within 12 months prior to the publication or submission of the quotation.

(h) This section shall not prohibit any publication or submission of any quotation if the Commission, upon written request or upon its own motion, exempts such quotation either unconditionally or on specified terms and conditions, as not constituting a fraudulent, manipulative or deceptive practice comprehended within the purpose of this section.

(Sec. 15(c)(2), 48 Stat. 895, sec. 3, 49 Stat. 1377, 15 U.S.C. 79o(c)(2); sec. 17(a), 48 Stat. 897, sec. 203(a), 49 Stat. 704, sec. 4, 49 Stat. 1379, 15 U.S.C. 79q; sec. 23a, 48 Stat. 901, 52 Stat. 1076, 15 U.S.C. 78w)

By the Commission.

[SEAL] THEODORE L. HUMES, *Associate Secretary.*

SEPTEMBER 13, 1971.

[FR Doc.71-13779 Filed 9-17-71;8:50 am]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER D—HAZARDOUS SUBSTANCES

PART 191—HAZARDOUS SUBSTANCES: DEFINITIONS AND PROCEDURAL AND INTERPRETATIVE REGULATIONS

Products Requiring Special Labeling

Section 191.7 is amended to delete subparagraph (1) of paragraph (a) and subparagraph (1) of paragraph (b) which are obsolete, having been superseded by § 191.9(a)(2), effective November 17, 1970.

(Sec. 10(a), 74 Stat. 378; 15 U.S.C. 1269)

Dated: September 10, 1971.

SAM D. FINE, *Associate Commissioner for Compliance.*

[FR Doc.71-13808 Filed 9-17-71;8:51 am]

Title 20—EMPLOYEES' BENEFITS

Chapter III—Social Security Administration, Department of Health, Education, and Welfare

[Regs. 5, further amended]

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED (1965-____)

Subpart D—Principles of Reimbursement for Provider Costs and for Services by Hospital-Based Physicians

ACCELERATED PAYMENTS TO PROVIDERS OF SERVICES

On April 13, 1971, there was published in the FEDERAL REGISTER (36 F.R. 7018) a notice of proposed rule making with a proposed amendment to Subpart D of Regulations No. 5. The proposed amendment reflects current policies of the Social Security Administration which authorize intermediaries to make accelerated payments to providers of services under specified conditions, and provides for the methods of computation of such payments and recovery by the intermediary. Interested persons were given the opportunity to submit within 30 days, data, views, or arguments with regard to the proposed amendment.

Comments have been received recommending that the requirement for Social Security Administration approval of accelerated payments be eliminated from the proposed regulation. This requirement, however, has been retained. Review by the Social Security Administration of a request for an accelerated payment to a provider of services will assure that the conditions for such payments are uniformly applied. Furthermore, reviews of requests for accelerated payments by the Social Security Administration are promptly conducted and do not cause any significant delay since they are made by the regional offices which are geographically close to the intermediaries and familiar with their operations. Accordingly, the amendment, as proposed, is adopted without change.

(Secs. 1102, 1814(b), 1861(v), 1871, 49 Stat. 647, as amended, 79 Stat. 296, 79 Stat. 322, 79 Stat. 331; 42 U.S.C. 1302, 1395 et seq.)

Effective date. These amendments shall be effective upon publication in the FEDERAL REGISTER (9-18-71).

Dated: August 18, 1971.

ROBERT M. BALL, *Commissioner of Social Security.*

Approved: September 12, 1971.

ELLIOT L. RICHARDSON, *Secretary of Health, Education, and Welfare.*

Section 405.454 is amended by redesignating present paragraph (h) as paragraph (i) and by adding a new paragraph (h) to read as follows:

§ 405.454 Payments to providers.

* * * * *

(h) *Accelerated payments to providers.* Upon request, an accelerated payment may be made to a provider of services where the provider has experienced financial difficulties due to a delay by the intermediary in making payments or, in exceptional situations, where the provider has experienced a temporary delay in preparing and submitting bills to the intermediary beyond its normal billing cycle. Any such payment must be approved first by the intermediary and then by the Social Security Administration. The amount of the payment is computed as a percentage of the net reimbursement for unbilled and/or unpaid covered services not otherwise paid for under the provision for current financing. Recovery of the accelerated payment may be made by recoupment as provider bills are processed and/or by direct payment.

* * * * *

[FR Doc.71-13787 Filed 9-17-71;8:50 am]

Title 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Power Commission

[Dockets Nos. R-389; R-389A]

PART 2—GENERAL POLICY AND INTERPRETATIONS

Initial Rates for Future Sales of Natural Gas for All Areas

SEPTEMBER 9, 1971.

Order further amending order on applications for rehearing.

On September 7, 1971, the Commission issued its Order on applications for rehearing and Amending Order (36 F.R. 18373), with respect to Order No. 435, which had been issued on July 15, 1971. Order No. 435 comprised an Opinion and Order Establishing Initial Rates in the Rocky Mountain Area (36 F.R. 13586). This order is subject to the provisions of our statement of policy implementing the Economic Stabilization Act of 1970 and Executive Order No. 11615.

The Commission further finds and so orders:

The order issued herein on September 7, 1971, is further amended by the addition of the following ordering paragraph:

D. This opinion and 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.

By the Commission.

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

[FR Doc.71-13756 Filed 9-17-71;8:46 am]

Title 22—FOREIGN RELATIONS

Chapter I—Department of State

[Dept. Reg. 108.643]

PART 46—CONTROL OF ALIENS DEPARTING FROM THE UNITED STATES

Restrictions Imposed Upon Travel

Part 46, Chapter I, Title 22 of the Code of Federal Regulations is amended with respect to restrictions imposed upon the departure of resident aliens for travel to Albania, Communist-controlled China or Outer Mongolia.

Section 46.3 is amended by revising paragraphs (k) and (l) to read as follows:

§ 46.3 Aliens whose departure is deemed prejudicial to the interests of the United States.

* * * * *

(k) Any alien lawfully admitted for permanent residence who seeks to depart from the United States for travel to, in, or through Cuba, North Korea (Democratic People's Republic of Korea), or North Vietnam (Democratic Republic of Viet-Nam).

(l) Any alien lawfully admitted for permanent residence who seeks to depart from the United States for travel to, in, or through Albania, Bulgaria, People's Republic of China, Czechoslovakia, Estonia, Hungary, Latvia, Lithuania, Mongolian People's Republic, Poland, Romania, the Soviet Zone of Germany ("German Democratic Republic"), the Union of Soviet Socialist Republics, or Yugoslavia, unless such alien shall possess a valid, unexpired reentry permit issued by the Attorney General pursuant to section 223 of the Immigration and Nationality Act subsequent to the effective date of this paragraph.

Effective date. These amendments shall become effective upon publication in the FEDERAL REGISTER (9-18-71).

The provisions of section 4 of the Administrative Procedure Act (80 Stat. 383; 5 U.S.C. 553) relative to notice of proposed rule making are inapplicable to this order because the regulations contained herein involve foreign affairs functions of the United States.

(Sec. 104, 66 Stat. 174; 8 U.S.C. 1104)

[SEAL] WILLIAM P. ROGERS,
Secretary of State.

Concurred in: July 23, 1971.

JOHN N. MITCHELL,
Attorney Genera

SEPTEMBER 2, 1971.

[FR Doc.71-13784 Filed 9-17-71;8:50 am]

Title 24—HOUSING AND HOUSING CREDIT

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

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

List of Designated Areas

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

§ 1914.4 List of designated areas.

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
* * *	* * *	* * *	* * *	* * *	* * *	* * *
California	Los Angeles	Covina	I 06 037 0890 03 I 06 037 0890 04	Department of Water Resources, Post Office Box 388, Sacramento, CA 95802. California Insurance Department, 107 South Broadway, Los Angeles, CA 90012, and 1407 Market St., San Francisco, CA 94103.	Office of the City Clerk, 125 East College St., Covina, CA 91722.	Sept. 17, 1971.
Florida	Broward	Hallandale				Do.
Do	Martin	Jupiter Island				Do.
New York	Chautauqua	Hanover Township.	I 36 013 8000 03 I 36 013 8000 04	New York State Department of Environmental Conservation, 50 Wolf Rd., Albany, NY 12201. New York State Insurance Department, 123 William St., New York, NY 10038, and 324 State St., Albany, NY 12210.	Town Clerk's Office, Town of Hanover, 239 Central Ave., Silver Creek, NY 14136.	Do.
Ohio	Cuyahoga	Rocky River	I 39 035 7040 07 I 39 035 7040 08	Ohio Department of Natural Resources, Ohio Departments Building, Columbus, Ohio 43215. Ohio Insurance Department, 115 East Rich St., Columbus, OH 43215.	Office of the Building Commissioner, City of Rocky River, 21012 Hilliard Blvd., Rocky River, OH 44116.	Do.
Pennsylvania	Chester	Tredyffrin Township.				Do.
Texas	Tarrant	Fort Worth				Do.

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

Issued: September 17, 1971.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.71-13650 Filed 9-17-71;8:45 am]

PART 1915—IDENTIFICATION OF FLOOD-PRONE AREAS

List of Flood Hazard Areas

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

§ 1915.3 **List of flood hazard areas.**

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
* * *	* * *	* * *	* * *	* * *	* * *	* * *
California	Los Angeles	Covina	H 06 037 0890 03.. H 06 037 0890 04	Department of Water Resources, Post Office Box 388, Sacramento, CA 95802. California Insurance Department, 107 South Broadway, Los Angeles, CA 90012, and 1407 Market St., San Francisco, CA 94103.	Office of the City Clerk, 125 East College St., Covina, CA 91722.	Oct. 13, 1970.
Florida	Broward	Hallandale				Sept. 17, 1971.
Do.	Martin	Jupiter Island				Do.
New York	Chautauqua	Hanover Township.	H 36 013 8000 03.. H 36 013 8000 04	New York State Department of Environmental Conservation, 50 Wolf Rd., Albany, NY 12201. New York State Insurance Department, 123 William St., New York, NY 10038, and 324 State St., Albany, NY 12210.	Town Clerk's Office, Town of Hanover, 239 Central Ave., Silver Creek, NY 14136.	Oct. 16, 1970.
Ohio	Cuyahoga	Rocky River	H 39 035 7040 07.. H 39 035 7040 08	Ohio Department of Natural Resources, Ohio Departments Building, Columbus, Ohio 43215. Ohio Insurance Department 115 East Rich St., Columbus, OH 43215.	Office of the Building Commissioner, City of Rocky River, 21012 Hilliard Blvd., Rocky River OH 44116.	Feb. 9, 1971.
Pennsylvania	Chester	Tredyffrin Township.				Sept. 17, 1971.
Texas	Tarrant	Fort Worth				Do.

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

Issued: September 17, 1971.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.71-13651 Filed 9-17-71;8:45 am]

Title 42—PUBLIC HEALTH

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

SUBCHAPTER F—QUARANTINE, INSPECTION, LICENSING

PART 78—REGULATIONS FOR THE ADMINISTRATION AND ENFORCEMENT OF THE RADIATION CONTROL FOR HEALTH AND SAFETY ACT OF 1968

SUBPART C—PERFORMANCE STANDARDS FOR ELECTRONIC PRODUCTS

Certification and Labeling Provisions

A notice was published in the FEDERAL REGISTER of April 16, 1971 (36 F.R. 7256), in which it was proposed to amend the certification and labeling provisions in 42 CFR 78, Subpart C. In § 78.201 *Certification* and § 78.202 *Labeling*, the proposed amendments provided for the addition of the phrase "and readily accessible to view" in order to clarify in the regulations an interpretation which has been followed and to make it clear that the required certification or identification tag or label must be capable of being read upon an ordinary examination of the assembled product. It was also proposed to change the heading of § 78.202 from "Labeling" to "Identification" to more clearly reflect the intent of the provisions of this section. Other changes proposed included amendments to both § 78.201 and § 78.202 to provide for other manner of certification and labeling which, in the future, may be required in certain of the performance standards contained in this subpart. Section 78.202 was changed to make clear (1) that full names and addresses shall be provided on labels, and (2) that manufacturers shall provide the Secretary with a list identifying each brand name which is applied together with the name and address of the company for which the product is manufactured.

Interested parties were given the opportunity to submit, within 30 days, inquiries and comments with regard to the proposed amendments. After consideration of all relevant comments, the Commissioner of Food and Drugs concludes that the amendments should be adopted as proposed, subject to minor editorial changes.

Therefore, pursuant to provisions of the Public Health Service Act, as amended by the Radiation Control for Health and Safety Act of 1968 (sec. 358, 82 Stat. 1177–1179; 42 U.S.C. 263f) and under authority delegated to the Commissioner of Food and Drugs (notice of which was published in the FEDERAL REGISTER of July 7, 1971 (36 F.R. 12803)), Part 78 is amended as follows:

1. Section 78.201 is amended by revising paragraphs (a), (b), and (d) as follows:

§ 78.201 **Certification.**

(a) Every manufacturer of an electronic product for which an applicable standard is in effect under this subpart shall furnish to the dealer or distributor, at the time of delivery of such product, the certification that such product conforms to all applicable standards under this subpart.

(b) The certification shall be in the form of a label or tag permanently affixed to or inscribed on such product so as to be legible and readily accessible to view when the product is fully assembled for use, unless the applicable standard prescribes some other manner of certification.

* * * * *

(d) In the case of products for which it is not feasible to certify in accordance with paragraph (b) of this section, upon application by the manufacturer, the Secretary may approve an alternate means by which such certification may be provided.

2. Section 78.202 is revised to read as follows:

§ 78.202 **Identification.**

(a) Every manufacturer of an electronic product to which a standard under this subpart is applicable shall set forth the information specified in subparagraphs (1) and (2) of this paragraph. This information shall be provided in the form of a tag or label permanently affixed or inscribed on such product so as to be

legible and readily accessible to view when the product is fully assembled for use or in such other manner as may be prescribed in the applicable standard.

(1) The full name and address of the manufacturer of the product: Abbreviations such as "Co.," "Inc.," or their foreign equivalents and the first and middle initials of individuals may be used. Where products are sold under a name other than that of the manufacturer of the product, the full name and address of the individual or company under whose name the product was sold may be set forth, provided such individual or company has previously supplied the Secretary with sufficient information to identify the manufacturer of the product.

(2) The month, year, and place of manufacture: This information may be expressed in code provided the manufacturer has previously supplied the Secretary with the key to such code.

(b) In the case of products for which it is not feasible to affix identification labeling in accordance with paragraph (a) of this section, upon application by the manufacturer, the Secretary may approve an alternate means by which such identification may be provided.

(c) Every manufacturer of an electronic product to which is applicable a standard under this subpart shall provide the Secretary with a list identifying each brand name which is applied to the product together with the full name and address of the individual or company for whom each product so branded is manufactured.

Effective date. This order shall become effective 30 days after publication in the FEDERAL REGISTER.

(Sec. 358, 82 Stat. 1177–1179; 42 U.S.C. 263f)

Dated: September 10, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-13806 Filed 9-17-71;8:52 am]

PART 78—REGULATIONS FOR THE ADMINISTRATION AND ENFORCEMENT OF THE RADIATION CONTROL FOR HEALTH AND SAFETY ACT OF 1968

Subpart H—Records and Reports

RECORDKEEPING AND REPORTING REQUIREMENTS APPLICABLE TO MANUFACTURERS OF ELECTRONIC PRODUCTS WHICH EMIT RADIATION

A notice published in the FEDERAL REGISTER of April 16, 1971 (36 F.R. 7256), proposed to amend the recordkeeping and reporting requirements of the radiation control regulations (1) by exempting manufacturers from certain of these requirements if they produce electronic products intended for the U.S. Government and their function or design cannot be divulged for reasons of national security, and (2) by requiring manufacturers to provide sufficient test results to enable the Secretary of Health, Education, and Welfare to determine the effectiveness of the methods and procedures used in testing the radiation safety of their products and to provide other information as the Secretary may reasonably require to enable him to determine whether the manufacturer is complying with the Public Health Service Act, as amended by the Radiation Control for Health and Safety Act of 1968. Certain editorial changes were also proposed.

Interested parties were given 30 days in which to submit comments regarding the proposed amendments. No comments were received.

Therefore, pursuant to the Public Health Service Act, as amended by the Radiation Control for Health and Safety Act of 1968 (sec. 360A and 360B, 82 Stat. 1182–1184; 42 U.S.C. 263i and 263j) and under authority delegated to the Commissioner of Food and Drugs (notice of which was published in the FEDERAL REGISTER of July 7, 1971 (36 F.R. 12803)), Part 78 is amended as follows:

1. Section 78.701 is amended by adding a new paragraph (c), as follows:

§ 78.701 Applicability.

* * * * *

(c) Manufacturers of electronic products which are intended for use by the U.S. Government and whose function or design cannot be divulged by the manufacturer for reasons of national security, as evidenced by government security classification.

2. Section 78.710 is amended by redesignating paragraph (h) as (i) and by adding new paragraphs (h) and (j), as follows:

§ 78.710 Initial reports.

* * * * *

(h) Provide sufficient results of the testing and measuring of electronic product radiation safety and of the quality control procedures described in accordance with paragraphs (f) and (g) of this section to enable the Secretary to determine the effectiveness of the methods and procedures used to accomplish the stated purposes.

* * * * *

(j) Provide upon request such other information as the Secretary may reasonably require to enable him to determine whether the manufacturer has acted or is acting in compliance with the Act and any standards prescribed thereunder, and to enable the Secretary to carry out the purposes of the Act.

3. Section 78.720 is amended by deleting the comma in paragraph (b)(1).

4. Section 78.741 is amended by revising the section heading to read:

"Exemptions for manufacturers of products intended for the U.S. Government" and by adding to the text the phrase "a manufacturer of" immediately after the phrase "may exempt from the provisions of this subpart."

Effective date. This order shall become effective 30 days after publication in the FEDERAL REGISTER.

(Secs. 360A and 360B, 82 Stat. 1182–1184; 42 U.S.C. 263i and 263j)

Dated: September 10, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-13807 Filed 9-17-71;8:52 am]

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior; Appendix—Public Land Orders

[Public Land Order 5116]

[Utah 10287]

UTAH

Addition to National Forest

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

1. Subject to valid existing rights, the boundaries of the Uinta National Forest are hereby extended to include the following described lands:

SALT LAKE MERIDIAN

PUBLIC LANDS

T. 15 S., R. 1 W.,
Sec. 24, lot 1;
Sec. 25, lots 1, 3, 5, 6, SE¼SW¼.
T. 10 S., R. 1 E.,
Sec. 12, SE¼SE¼;
Sec. 13, SW¼NE¼, SE¼NW¼, E½SW¼, N½SE¼, SW¼SE¼;
Sec. 24, W½NE¼, SE¼NE¼.
T. 14 S., R. 1 E.,
Sec. 12, W½NE¼, NW¼SE¼;
Sec. 21, E½E½, NW¼NE¼;
Sec. 22, SW¼;
Sec. 23, S½NE¼, NE¼NW¼, E½SW¼, SE¼;
Sec. 24, W½E½, W½;
Sec. 25, W½NE¼, N½NW¼, SW¼NW¼, NW¼SE¼;
Sec. 26, W½NE¼, NW¼, N½SW¼, SW¼SW¼;
Sec. 27;
Sec. 28, NE¼, SE¼NW¼, NE¼SW¼, N½SE¼;
Sec. 33, NW¼NE¼, SE¼SW¼, S½SE¼;
Sec. 34, S½N½, S½S½;
Sec. 35, W½NE¼, S½NW¼, SW¼SW¼, SE¼.
T. 15 S., R. 1 E.,
Sec. 19, lots 4 to 11, inclusive, W½NE¼, SE¼NW¼;
Sec. 27, SW¼SW¼;
Sec. 28, W½NW¼, E½SW¼, S½SE¼;
Sec. 29, N½, N½SW¼, NW¼SE¼;
Sec. 30;
Sec. 31, lots 1 to 9, inclusive, NE¼, E½NW¼, NE¼SW¼, N½SE¼;
Sec. 33, lots 1, 2, and 4, N½, N½S½;
Sec. 34, lots 1 and 2, NW¼, N½SW¼.
T. 16 S., R. 1 E.,
Sec. 3, lots 1 to 8 inclusive;
Sec. 4, lots 1 and 3 to 8, inclusive.

T. 9 S., R. 2 E.,
Sec. 21, N½NE¼, SE¼NE¼, NE¼SE¼, SW¼SE¼;
Sec. 27, W½SW¼;
Sec. 28;
Sec. 29, SE¼NE¼, E½SE¼;
Sec. 33;
Sec. 34, W½W½.
T. 13 S., R. 2 E.,
Sec. 16, W½W½ (unsurveyed);
Sec. 35, lots 1 and 2.
T. 14 S., R. 2 E.,
Sec. 35, lot 1.
T. 15 S., R. 2 E.,
Sec. 14, NW¼SW¼;
Sec. 15, N½SE¼, SW¼SE¼;
Sec. 22, E½;
Sec. 23, W½W½, NE¼SW¼;
Sec. 25, lots 1 to 5 inclusive, W½NW¼;
Sec. 26, NE¼NE¼, W½W½;
Sec. 27, E½;
Sec. 34, lots 3 and 4, NE¼, N½SE¼;
Sec. 35, lot 1, W½NW¼, NW¼SW¼.
T. 8 S., R. 3 E.,
Sec. 1, SE¼SE¼.
T. 9 S., R. 3 E.,
Sec. 12, lots 1 and 2.
T. 9 S., R. 4 E.,
Sec. 10, N½NW¼;
Sec. 17, SW¼NE¼, SE¼NW¼;
Sec. 18, NE¼NE¼;
Sec. 26, SE¼SW¼, SW¼SE¼;
Sec. 27, NE¼SE¼.
T. 9 S., R. 5 E.,
Sec. 33, S½.
T. 10 S., R. 5 E.,
Sec. 12, NW¼NE¼.
T. 10 S., R. 6 E.,
Sec. 14, W½NW¼;
Sec. 15, N½NE¼, NW¼NW¼;
Sec. 17, lots 1 and 2, W½NW¼;
Sec. 18, E½NE¼.
T. 10 S., R. 7 E.,
Sec. 19, lots 3 and 4, NE¼, E½SW¼, N½SE¼;
Sec. 20, NW¼NE¼, N½NW¼, SW¼NW¼, NW¼SW¼.

PRIVATELY OWNED LANDS

T. 15 S., R. 1 W.,
Sec. 25, lot 2.
T. 10 S., R. 1 E.,
Sec. 13, lots 1, 2, 3, and 4, SE¼NE¼, SW¼NW¼, W½SW¼, SE¼SE¼;
Sec. 24, NE¼NE¼, W½, SE¼;
Secs. 25 and 26.
T. 14 S., R. 1 E.,
Sec. 12, SW¼SE¼;
Sec. 13, W½E½;
Sec. 21, SW¼NE¼, W½SE¼;
Sec. 22, N½, SE¼;
Sec. 23, N½NE¼, W½W½, SE¼NW¼;
Sec. 25, SE¼NW¼, SW¼, SW¼SE¼;
Sec. 26, E½NE¼, SE¼SW¼, SE¼;
Sec. 28, NE¼NW¼, SE¼SW¼, S½SE¼;
Sec. 33, E½NE¼, SW¼NE¼, E½NW¼, NE¼SW¼, N½SE¼;
Sec. 34, N½N½, N½S½;
Sec. 35, E½NE¼, N½NW¼, N½SW¼, SE¼SW¼;
Sec. 36, W½E½, W½.
T. 15 S., R. 1 E.,
Sec. 19, lots 1, 2, and 3, NE¼NW¼, NE¼SW¼;
Sec. 27, NW¼, N½SW¼, SE¼SW¼;
Sec. 28, NE¼, E½NW¼, W½SW¼, N½SE¼;
Sec. 29, S½S½, NE¼SE¼;
Sec. 32;
Sec. 33, lot 3.
T. 16 S., R. 1 E.,
Sec. 4, lot 2.
T. 9 S., R. 2 E.,
Sec. 21, SW¼NE¼, SW¼, NW¼SE¼, SE¼SE¼.
T. 10 S., R. 2 E.,
Sec. 7, lot 4.
T. 14 S., R. 2 E.,
Sec. 35, lots 2, 3, and 4, W½NE¼, NW¼, N½SW¼, NW¼SE¼.
T. 15 S., R. 2 E.,
Sec. 3, Tract 43, lots 3, 4, 9, and 10;
Sec. 10, E½;
Sec. 14, SW¼SW¼;
Sec. 15, NE¼, SE¼SE¼;
Sec. 23, SE¼SW¼;
Sec. 25, Tract 56;
Sec. 26, NW¼NE¼, S½NE¼, E½W½, SE¼.
T. 9 S., R. 4 E.,
Sec. 26, N½SW¼, NW¼SE¼.
T. 10 S., R. 5 E.,
Sec. 12, NE¼NE¼.
T. 10 S., R. 6 E.,
Sec. 14, NE¼, E½NW¼;
Sec. 15, NE¼NW¼.
T. 10 S., R. 7 E.,
Sec. 19, lots 1 and 2, E½NW¼, S½SE¼.

The areas described, including public and privately owned lands, aggregate approximately 24,755.36 acres in Utah, Juab, and Sanpete Counties, of which approximately 14,678 acres are public domain lands.

2. The public lands above described, are hereby added to and made a part of the Uinta National Forest and hereafter shall be subject to all laws and regulations applicable to said national forest.

3. The privately owned lands described in this order shall become a part of the Uinta National Forest and subject to all laws and regulations applicable thereto upon acquisition of title to said lands or interest therein by the United States under applicable law.

HARRISON LOESCH,
Assistant Secretary of the Interior.

SEPTEMBER 10, 1971.

[FR Doc.71-13687 Filed 9-17-71;8:45 am]

[Public Land Order 5121]

[Colorado 1329]

COLORADO

Withdrawal for National Forest Recreation Areas and Administrative Site

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

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

PIKE NATIONAL FOREST

SIXTH PRINCIPAL MERIDIAN

Geneva Basin Ski Area

T. 5 S., R. 74 W.,
Sec. 31, west 10 chains of lot 4.
T. 5 S., R. 75 W.,
Sec. 36, SE¼.
T. 6 S., R. 75 W.,
Sec. 1, lots 2, 3, and 4.

Meridian Campground Addition

T. 6 S., R. 73 W.,
Sec. 22, S½NE¼.

Burning Bear Campground

T. 6 S., R. 74 W.,
Sec. 19, W½SW¼NE¼, NE¼SE¼NW¼.

Kirby Gulch Dam and Recreation Area

T. 6 S., R. 75 W.,
Sec. 2, S½SW¼SW¼, NW¼SW¼SW¼, S½SE¼SW¼;
Sec. 3, E½SE¼SE¼;
Sec. 10, NE¼NE¼NE¼;
Sec. 11, NE¼NW¼, E½NW¼NW¼, NW¼NW¼NW¼.

Michigan Lake Campground

T. 7 S., R. 76 W.,
Sec. 7, NE¼SE¼SE¼.

Jefferson Creek Campground

T. 7 S., R. 76 W.,
Sec. 14, S½SE¼SW¼;
Sec. 23, N½NE¼NW¼.

Beaver Ponds Picnic Ground

T. 7 S., R. 76 W.,
Sec. 23, E½SE¼NE¼.

Boundary Picnic Ground

T. 7 S., R. 76 W.,
Sec. 25, NW¼NW¼SE¼, SW¼SW¼NE¼.

Indian Creek Campground

T. 8 S., R. 69 W.,
Sec. 3, north 10 chains of lot 14.

Flat Rocks Campground

T. 8 S., R. 69 W.,
Sec. 27, east 5 chains of lot 7, lot 8, and north 10 chains of lot 9.

Garber Creek Campground

T. 8 S., R. 69 W.,
Sec. 35, west 10 chains of lot 10; east 10 chains of lot 11; north 10 chains of the east 10 chains of lot 12, and north 10 chains of the west 10 chains of lot 13.

Top of the World Picnic Ground

T. 8 S., R. 70 W.,
Sec. 4, west 10 chains of lot 9 and west 10 chains of lot 16;
Sec. 5, lot 13.

Pine Valley Campground

T. 8 S., R. 70 W.,
Sec. 19, north 10 chains of the east 10 chains of lot 12.

Kelsey Campground

T. 8 S., R. 70 W.,
Sec. 31, lots 14 and 15.

Buck Gulch Campground

T. 8 S., R. 71 W.,
Sec. 7, W½NW¼SE¼, E½NE¼SW¼.

Sunnyside Campground

T. 8 S., R. 72 W.,
Sec. 11, SW¼NE¼, E½E½SE¼NW¼.

Selkirk Campground

T. 8 S., R. 77 W.,
Sec. 12, the south 10 chains of lot 3, and lots 6 and 11.

Water Gap Campground

T. 8 S., R. 77 W.,
Sec. 13, the north 10 chains of lot 9.

Cabin Ridge Picnic Ground

T. 9 S., R. 69 W.,
Sec. 9, E½E½SE¼NE¼;
Sec. 10, SW¼NW¼ and N½NW¼SW¼.

Jackson Creek Campground

T. 9 S., R. 69 W.,
Sec. 22, E½E½NE¼SE¼;
Sec. 23, S½S½SW¼NW¼, NW¼SW¼, and N½N½SW¼SW¼.

Virgin's Bath Picnic Ground

T. 9 S., R. 69 W.,
Sec. 16, S½SE¼SW¼;
Sec. 21, NE¼NW¼, W½NW¼NE¼.

Platte River Picnic Ground

T. 9 S., R. 70 W.,
Sec. 3, lots 11, 12, 13, and 14.

Bridge Crossing Picnic Ground

T. 9 S., R. 70 W.,
Sec. 3, NW¼SE¼SE¼.

Webster Plateau Campground

T. 9 S., R. 71 W.,
Sec. 21, E½SE¼NW¼, and NE¼NE¼SW¼.

Goose Creek Campground

T. 10 S., R. 71 W.,
Sec. 20 (unsurveyed), when surveyed will probably be: NE¼NW¼.

North Twin Campground

T. 10 S., R. 71 W.,
Sec. 4 (unsurveyed), when surveyed will probably be: SE¼SE¼NW¼, SW¼SW¼NE¼, NW¼SE¼, N½SW¼SE¼, NE¼SE¼SW¼, and E½NE¼SW¼.

Spruce Grove Campground (Addition)

T. 10 S., R. 72 W.,
Sec. 32, NW¼NW¼SE¼, W½SW¼NE¼, N½SE¼SW¼NE¼, N½SW¼SE¼NE¼, S½NW¼SE¼NE¼, S½NE¼SW¼NE¼, NW¼NE¼SW¼NE¼.

Horseshoe Campground Addition

T. 10 S., R. 78 W.,
Sec. 2, S½SW¼SE¼SW¼.

Fourmile Campground

T. 10 S., R. 78 W.,
Sec. 3, N½N½NW¼SW¼, S½S½SW¼NW¼.

Big Turkey Campground

T. 11 S., R. 70 W.,
Sec. 4, NE¼SW¼, N½SE¼SW¼, NW¼SW¼SE¼, and W½NW¼SE¼.

South Fork Campground

T. 11 S., R. 78 W.,
Sec. 18, SW¼NE¼, E½SE¼NW¼.

Lake George Administrative Site (Addition)

T. 12 S., R. 71 W.,
Sec. 29, exchange survey 368, tracts A and B.

Halfway Valley Campground

T. 12 S., R. 72 W.,
Sec. 33, N½SE¼NW¼, S½NE¼NW¼, S½NW¼NE¼, NW¼SW¼NE¼.

Pipe Springs Campground

T. 12 S., R. 73 W.,
Sec. 12, S½SE¼NE¼, S½N½SE¼NE¼, SE¼SW¼NE¼, E½SW¼SW¼NE¼, S½NE¼SW¼NE¼, SE¼NW¼SW¼NE¼.

Puma Hills Campground

T. 13 S., R. 72 W.,
Sec. 7, lots 7, 8, 9, 10, 15, 16, and 17.

The areas described aggregate 2,306.55 acres in Douglas, Jefferson, Park, and Teller Counties.

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

HARRISON LOESCH,
Assistant Secretary of the Interior.

SEPTEMBER 10, 1971.

[FR Doc.71-13692 Filed 9-17-71;8:45 am]

[Public Land Order 5122]

[Sacramento 4257]

CALIFORNIA

Withdrawal for National Forest Administrative Site

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

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

SHASTA-TRINITY NATIONAL FOREST

HUMBOLDT MERIDIAN

Hyampom Administrative Site

T. 3 N., R. 6 E.,
Sec. 22, SE¼NE¼.

The area described aggregates 40 acres in Trinity County.

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

HARRISON LOESCH,
Assistant Secretary of the Interior.

SEPTEMBER 13, 1971.

[FR Doc.71-13760 Filed 9-17-71;8:47 am]

[Public Land Order 5123]

[Arizona 5930]

ARIZONA

Partial Revocation of Stock Driveway Withdrawal

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

1. The departmental orders of June 6, 1923, July 29, 1924, and May 19, 1938, creating Stock Driveway Withdrawal No. 164 (Arizona No. 6), are hereby revoked so far as they affect the following described lands:

GILA AND SALT RIVER MERIDIAN

T. 1 N., R. 7 E.,
Sec. 4, S½;
Sec. 8, N½NE¼, SE¼NE¼;
Sec. 9, N½.

The areas described aggregate 760 acres in Maricopa County.

2. This revocation is in furtherance of the right of the State of Arizona to file a school land indemnity selection application for the lands, pursuant to sections 2275 and 2276, U.S. Revised Statutes, as amended, 43 U.S.C. sections 851, 852 (1964). Accordingly, the lands described in this order are hereby classified, pursuant to section 7 of the Act of June 28, 1934, 48 Stat. 1272, as amended, 43 U.S.C. section 315f (1964), as suitable for such selection. The lands, therefore, will not be subject to other use or disposition under the public land laws in the absence of a modification or revocation of such classification (43 CFR 2440.4).

HARRISON LOESCH,
Assistant Secretary of the Interior.

SEPTEMBER 13, 1971.

[FR Doc.71-13761 Filed 9-17-71;8:47 am]

[Public Land Order 5124]

[BML 066648]

MICHIGAN

Addition to National Forest

By virtue of the authority contained in the Act of July 9, 1962, 76 Stat. 140, 43 U.S.C. section 315g-1 (1964), it is ordered as follows:

Subject to valid existing rights, the following described lands, acquired in an exchange made pursuant to section 8 of the Taylor Grazing Act of June 28, 1934, 48 Stat. 1272, as amended, 43 U.S.C. section 315g (1964), are hereby added to and made a part of the Manistee National Forest and hereafter shall be subject to all the laws and regulations applicable to said national forest:

MICHIGAN MERIDIAN

T. 17 N., R. 12 W.,
Sec. 17, W½SW¼NW¼.
T. 14 N., R. 13 W.,
Sec. 5, S3/4SE¼NW¼, S½SW¼NE¼.

The areas described aggregate 69.55 acres in Lake and Newaygo Counties.

HARRISON LOESCH,
Assistant Secretary of the Interior.

SEPTEMBER 13, 1971.

[FR Doc.71-13762 Filed 9-17-71;8:47]

[Public Land Order 5125]

[Arizona 08550]

ARIZONA

Modification of Public Land

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

1. Public Land Order No. 1229 of September 27, 1955, withdrawing from all forms of appropriation under the public land laws, including the mining but not the mineral leasing laws, certain national forest lands for campgrounds, lookout sites, administrative site, guard station, and recreation areas, is hereby modified to the extent necessary to open to all forms of appropriation under the public land laws applicable to national forest lands, except under the U.S. mining laws, the following described lands:

GILA AND SALT RIVER MERIDAN

COCONINO NATIONAL FOREST

Bakers Butte Lookout Site

T. 12 N., R. 9 E.,
Sec. 2, S½SW¼NW¼SW¼, SW¼SE¼ NW¼SW¼, NW¼SW¼SW¼, W½NE¼ SW¼SW¼, N½SW¼SW¼SW¼, NW¼ SE¼SW¼SW¼ (unsurveyed);
Sec. 3, SE¼SE¼NE¼SE¼, E½NE¼SE¼ SE¼, NE¼SE¼SE¼SE¼ (unsurveyed).

Buck Mountain Lookout Site

T. 15 N., R. 9 E.,
Sec. 20, SE¼NE¼SW¼SE¼, E½SE¼SW¼ SE¼, S½NW¼SE¼SE¼, SW¼NE¼ SE¼SE¼, SW¼SE¼SE¼, W½SE¼SE¼ SE¼;
Sec. 29, NE¼NE¼NW¼NE¼, N½NW¼ NE¼NE¼, NW¼NE¼NE¼NE¼.

Hutch Mountain Lookout Site

T. 16 N., R. 9 E.,
Sec. 3, E½NW¼SW¼, E½W½NW¼SW¼, W½W½NE¼SW¼.

Lee Butte Lookout Site

T. 17 N., R. 8 E.,
Sec. 22, SE¼SW¼.

Mormon Lake Lookout Site

T. 17 N., R. 9 E.,
Sec. 3, SE¼SE¼ of lot 3, S½SW¼ of lot 2, SW¼SE¼ of lot 2, NW¼SW¼NE¼, W½NE¼SW¼NE¼, N½SW¼SW¼NE¼, NW¼SE¼SW¼NE¼, E½NE¼SE¼ NW¼, NE¼SE¼SE¼NW¼.

East Pocket Knob Lookout Site

T. 18 N., R. 6 E.,
Sec. 6, E½E½SW¼NE¼, W½SE¼NE¼, W½E½SE¼NE¼ (unsurveyed).

Turkey Butte Lookout Site

T. 19 N., R. 5 E.,
Sec. 18, NW¼NE¼.

Woody Mountain Looksite Site

T. 20 N., R. 6 E.,
Sec. 3, SE¼NE¼NW¼SW¼, E½SE¼NW¼ SW¼, S½NW¼NE¼SW¼, SW¼NE¼ NE¼SW¼, SW¼NE¼SW¼, W½SE¼ NE¼SW¼, NE¼NE¼SW¼SW¼, N½ NW¼SE¼SW¼, NW¼NE¼SE¼SW¼.

Mt. Elden Lookout Site

T. 22 N., R. 7 E.,
Sec. 36, SE¼SE¼.

Saddle Mountain Lookout Site

T. 24 N., R. 6 E.,
Sec. 26, SW¼NE¼NW¼, SE¼NW¼NW¼, NE¼SW¼NW¼, NW¼SE¼NW¼.

Deadman Lookout Site

T. 24 N., R. 7 E.,
Sec. 26, S½N½SW¼NE¼, S½SW¼NE¼, N½N½NW¼SE¼.

T-6 Spring Recreation Area

T. 18 N., R. 7 E.,
Sec. 25, NE¼SE¼, S½SE¼.

O'Leary Peak Lookout Site

T. 23 N., R. 8 E.,
Sec. 3, SE¼SE¼.

Lava River Cave Campground

T. 23 N., R. 5 E.,
Sec. 26, E½SE¼SW¼, W½SW¼SE¼.

Dairy Spring Campground

T. 18 N., R. 8 E.,
Sec. 12, SE¼SE¼NE¼, NE¼NE¼SE¼.
T. 18 N., R. 9 E.,
Sec. 7, SW¼ of lot 2, NW¼ of lot 3.

Double Springs Campground

T. 18 N., R. 8 E.,
Sec. 13, SE¼SE¼NE¼, NE¼NE¼SE¼.
T. 18 N., R. 9 E.,
Sec. 18, NW¼ of lot 3 (NW¼NW¼SW¼).

Kohl Spring Campground

T. 12 N., R. 10 E.,
Sec. 8, SE¼SE¼SW¼, SW¼SW¼SE¼.
Sec. 17, NE¼NE¼NW¼, NW¼NW¼NE¼.

Knob Hill Administrative Site

T. 21 N., R. 7 E.,
Sec. 15, N½NE¼, NE¼NW¼, NE¼SE¼ NW¼NW¼, N½SE¼SE¼NW¼NW¼.

Genral Spring Guard Station

T. 12 N., R. 10 E.,
Sec. 1, lots 1 and 2, SE¼NW¼, SW¼NE¼.

The areas described aggregate 1,036.04 acres in Coconino County.

2. At 10 a.m. on October 19, 1971, the lands described in paragraph 1 will be open to such forms of disposition as may by law be made of national forest lands except appropriation under the U.S. mining laws.

HARRISON LOESCH,
Assistant Secretary of the Interior.

SEPTEMBER 13, 1971.

[FR Doc.71-13763 Filed 9-17-71;8:47 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 19182; FCC 71-941]

PART 0—COMMISSION ORGANIZATION

PART 13—COMMERCIAL RADIO OPERATORS

Issuance of Radiotelephone Licenses to Blind Persons

Report and order. 1. The Commission instituted this proceeding by a notice of inquiry and notice of proposed rule making, adopted March 24, 1971 (FCC 71-295, 28 FCC 2d 130, 36 F.R. 65), to consider the possibility of amending its rules to permit sightless persons to qualify for higher class radiotelephone operator licenses.[1] The Commission's rules now provide for waiver of the written examination only with respect to the third class radiotelephone operators licenses. The time for filing comments was extended to June 21, 1971; reply comments to July 12, 1971. As indicated in the attached appendix, the rules are amended liberalizing the rights of sightless persons to qualify for all classes of radiotelephone operator permits.

2. As we stated in our notice, the question of blind persons holding radiotelephone operator licenses is not new. Eyesight has been viewed generally as essential for the performance of most operator duties. So inherent was this concept that the rules required the examinations for original licenses to be written in longhand by the applicant in the English language.[2] Notwithstanding the written examination prerequisite, several of the engineers-in-charge at some of the district offices over the years did take it upon themselves to offer examinations to blind persons. The lack of uniformity and this ad hoc handling of the matter was officially resolved by Commission order released June 23, 1967 (FCC 67-749, 8 FCC 2d 696), amending § 13.5(c)(2) of the rules[3] affording waiver of the written examination requirement with respect to the radiotelephone third class operator license. It was recognized at that time that sufficient adaptations could be made to the radio equipment so as to permit a blind person to perform the operating duties with reasonable accuracy, but not so with respect to the more technically oriented maintenance duties required of the higher degree of license holder.

3. Continued pressure on the part of concerned individuals and groups prompted the instant proceeding so that a more thorough examination of the entire matter could be made, more particularly in light of the present day technologies and uses of the appropriate class license. Upwards of 30 comments were received in all, the largest portion from blind persons and Governors' Committees on the Employment of the Handicapped as well as several from individual licensees (operator and station) who have worked with or been exposed to blind operators. Virtually all of those commenting urged in essence: That blind persons be permitted an opportunity to take any examination for which they may qualify; the Commission to limit its concern solely to the question of whether applicant passed the necessary test, leaving any questions of restrictions with respect to fitness and/or eligibility for employment to the individual operator and employer, both of whom would be more attuned to the capabilities of the sightless licensee vis-a-vis the job requirements. The National Association of Broadcasters (NAB) did have some reservations.

4. The responding parties agree that the safety factor is of paramount importance. They contend however, that since the question of personal safety is

[1] Radiotelephone first class and radiotelephone second class. This rule making proceeding does not deal with the Radiotelegraph series of the licenses.

[2] "Section 13.23 *Form of writing.* Written examination shall be in English and shall be written by the applicant in longhand in ink, except that diagrams may be in pencil."

[3] Section 13.5(c)(2) reads as follows:

"(2) If an applicant afflicted with blindness is afforded a waiver of the written examination requirement and is found qualified for a radiotelephone third class operator permit, he may be issued the permit: *Provided*, That the license so received shall bear an endorsement as follows:

This license is not valid for the operation of any station licensed by the Commission unless the station has been adapted for operation by a blind person and the equipment to be used in such station for that purpose is capable of providing for operation in compliance with the Commission's rules."

just as much of concern to the blind individual as it is to the sighted—that the blind technician has no less regard for his life than has his sighted colleagues—the compatibility of the particular individual with the job requirements in any given instance should more appropriately be left to the discretion of the parties themselves who are in the best position to mutually evaluate the particular hazards of a given technical operation. They argue that the same should not be the subject of arbitrary and discriminatory limitations imposed by the Commission on sightless individuals restricting the class of license for which he may qualify.

5. The parties urge that, overall, all technical people whether handicapped or not, differ in their ability and safety habits. However, the blind person through the exercise of proper judgment and care will, in most situations, make suitable accommodations for the lack of sight by developing aids to assist in the completion of a particular task as well as testing and utilizing new devices and techniques. The Utah State Board of Education contends, for example, the availability of instrumentation which makes most, if not all, adjustments to commercial radio equipment feasible for the blind operator, and the existence of well designed equipment which permits adjustments to be made through small access holes, with properly insulated instruments so that operators do not forage about amongst high voltage wires and components while the current is on. Mr. Robert W. Gunderson, a blind first class operator for upwards of 30 years, states that he earns his living in the radio and electronic industry for which these commercial licenses are necessary adjuncts, and has developed numerous auditory measuring instruments which provide aural signals with braille read-out which enables the blind engineer, technician, and service man to perform his duties. The concensus generally however, is that the only effective safety devices available for the protection of any and all operators are care, common sense, and a thorough knowledge of the equipment being operated.

6. It is pointed out further that blind operators have been building and maintaining high-powered radio transmitters for decades in all phases of radio technology; that the blind amateurs work on and maintain their own transmitters, making adjustments on live circuits at their own discretion;[4] that more than 500 blind persons now hold radio amateur licenses from the Commission with "hundreds" operating "Ham" stations involving lethal voltage equipment; that as a matter of fact, ordinary house current could likewise be "lethal". Under the circumstances, the limitations imposed in the commercial operator field appears to the interested parties to be unwarranted. The Commission is convinced by the position of Governors' Committees on the Employment of the Handicapped and blind persons, and hereinafter regards the matter of personal safety of operators to be a consideration of employment between employer and employee.

7. More important however, insofar as the sightless person is concerned, is the prestige and ancillary job opportunities associated with the higher class license. Mr. Gunderson states that several of his major areas of employment would not have been available to him had he not been the holder of the higher class license. He would not, he contends, have been able to become an instructor for the United States Signal Corps Reserve in the 1940's had he not had the appropriate first and second class license, or had the opportunity to teach sighted applicants radio theory. In his view "lack of sight has nothing to do with technical ability." He points out that the passing of the appropriate examination indicates a mark of achievement—an honor bestowed upon the applicant evidencing that he is trained and disciplined to the extent demonstrated in the examination, and that the licensing agency should not withhold this right. Several others in their responses elaborate on this view. Mr. Sylvester N. Nemers, a former first class license holder,[5] notes for example, that the two-way communications field is closed "to technically qualified blind persons because at least a Second Class Radiotelephone License is required to maintain and repair transmitters of fixed or mobile stations." He alleges further that "certain electronics manufacturers or users require the employee to hold a particular operator license either for hiring or promotion." He urges therefore, that the blind persons be allowed to be examined and become qualified for all classes of commercial licenses in order that these avenues of job opportunities not be denied them.

8. The Committees and/or Commissions established essentially for the education and rehabilitation of the handicapped make the additional argument that the key to placing handicapped is selective placement—matching individual skills and physical limitations to job demands. Thus, they contend, to "arbitrarily" deny an individual the opportunity to secure the appropriate license is to limit automatically his participation and opportunity of achievement in his chosen field. The blind person does not seek nor must he be given sympathy. He must be allowed to be fairly competitive in attaining the maximum potential of vital importance. This, they urge, can only be accomplished by amending the rules to permit the licensing of the handicapped person who demonstrates by examination (orally, in writing, or by braille) that he has the necessary knowledge of rules and technology set forth by the examination.

9. NAB in its comments strongly supports any and all efforts which extend employment opportunities to the handicapped, but nevertheless holds fast to the concept that "it would be foolhardy to permit a sightless individual to either attempt or be legally qualified to maintain equipment under such conditions" where there is a single first class license holder responsible for the technical operation and maintenance of the directional station. NAB points out that the duties required to be performed will involve a multiplicity of functions, to wit, adjustment and maintenance of the antenna system requiring reading of precision instruments, extensive field measurements at remote locations, visual inspection of components for deterioration or overheating, plus a host of other operating parameters as well as maintenance functions involving voltages which could pose a definite hazard to one's personal safety.[6] We appreciate NAB's concern, but do not believe the problem to be insurmountable. The stations are now free to enter into any employee-employer relationship which they deem proper and appropriate, and this free choice will continue to be theirs. The Commission is aware that granting higher grade operator licenses to sightless persons may create certain practical problems for broadcasters in that under many situations of transmitter and other equipment malfunction, the sightless operator may be handicapped vis-a-vis a sighted operator. It should be understood that, as at present, the Commission will hold the station licensee responsible for adaptation of the station's technical equipment to obtain compliance with the rules and for day-by-day operation of the station within the rules and the terms of the station authorization. The rule change will merely extend the blind person's opportunity to compete.

10. Several collateral issues remain for consideration. Section 13.5(c)(2) now requires that the license of the blind operator be endorsed to reflect the physical limitation by restricting the use of licenses in the Safety Radio Services and requiring any radio station employing blind operators to adapt their stations with the necessary equipment for operation by a blind person so that the station is capable of being operated in compliance with the Commission's rules. Several of the parties urge here that since the physical handicap is obvious at first glance no advantage exists to any such endorsement, save to act as a

[4] The Commission field personnel state that in their experience many sightless amateur operators shut down a transmitter that is not operating properly and seek assistance from a sighted person.

[5] Mr. Nemer received his radiotelephone first-class license in 1942. However, he permitted the same to lapse in 1957. The subsequent uniformity in the rules permitted him to qualify only for a third class permit.

[6] NAB alleges in addition that the "anticipated adoption of the new license-holder concept and requirement as proposed in Docket No. 18930" (of which NAB is a foremost proponent) looking toward the amendment of Part 73 of the rules and ultimate relaxation of the requirement to have first class operators on duty would create sufficient third class jobs and moot the instant proceeding. We do not believe NAB's arguments in this area to be appropriate for consideration in this proceeding, nor necessarily decisionally significant at this time.

psychological disadvantage; that both parties appreciate the limitations and neither seeks trouble; that since the blind operator is fully aware of the existing hazards and would not want a job beyond his capabilities and the station would not be apt to make the offer to him for a job beyond his ability, any limitations or restraints placed on the face of the license are unnecessary and unwarranted. Mr. Morris Courtright, Jr., of Courtright Engineering, takes the extreme opposite view urging that all first-class licenses (whether issued to sighted or sightless persons) should be identified and endorsed for those with maintenance knowledge and ability, giving full use and recognition for currently issued degrees and certificates of a technical nature in lieu of degrees of examination. The more moderate view recommends that the license issued to the blind applicant be limited with respect to the maintenance factor at least until such time as the station licensee determines that the sightless operator is able to perform the requisite duties without supervision, thus assuring that the facilities will be operated and maintained within FCC specifications. Section 13.5(c) (1) and (2) now requires that these restrictive endorsements be placed on third class license documents obtained by sightless persons. This practice will be continued for sightless persons obtaining higher grade licenses.

11. On the basis of the comments herein together with available pertinent information, the Commission is of the view that a most equitable conclusion, and one which would best serve the public interest, would be for the Commission to issue all grade of radiotelephone operator licenses to blind persons who qualify by taking the appropriate examination, subject to nonuse in the Safety Radio Services and to the requirement that any transmitter operated by a blind person must be adapted by the station licensee for operation so that the station is capable of being operated in compliance with the Commission's rules.

12. We have examined further how best to conduct the examination to blind persons, and have concluded that the same is to be administered by a Commission employee at a Commission district office. Since the examination must be given orally, thus requiring a substantial period of time, the examinations will be conducted only pursuant to prearranged appointments made at least 2 weeks in advance of the examination date. In this way, the examinations will be conveniently spaced and timed and the normal functions of the district office minimally disrupted.

13. In view of the foregoing: *It is ordered*, That effective October 26, 1971, pursuant to the authority contained in sections 4(i) and 303(l) of the Communications Act of 1934, as amended, §§ 0.314, 13.5(c)(2), 13.11, and 13.23 of the Commission's rules are amended as set forth below. *It is further ordered*, That this proceeding is terminated.

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

Adopted: September 8, 1971.

Released: September 13, 1971.

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

1. A new paragraph (r) is added to § 0.314 to read as follows:

§ 0.314 Authority delegated to the Engineers in Charge.

* * * * *

(r) Request by blind applicant for appointment for a date and time within which to appear at the appropriate district office for a radiotelephone license examination. (§ 13.11 of this chapter)

2. Section 13.5(c)(2) is amended to read as follows:

§ 13.5 Eligibility for new license.

* * * * *

(c) * * *

(2) If an applicant afflicted with blindness is afforded a waiver of the written examination requirement and is found qualified for a radiotelephone first-class operator license, radiotelephone second-class operator license, radiotelephone third-class operator license, and radiotelephone third-class operator license with broadcast endorsement, he may be issued the license: *Provided*, That the license so received shall bear an endorsement as follows:

This license is not valid for the operation of any station licensed by the Commission unless the station has been adapted for operation by a blind person and the equipment to be used in such station for that purpose is capable of providing for operation in compliance with the Commission's rules.

* * * * *

3. A new paragraph (e) is added to § 13.11 to read as follows:

§ 13.11 Procedure.

*/ * * * *

(e) Blind applicant. A blind person seeking an examination for radiotelephone first-class operator license, radiotelephone second-class operator license, radiotelephone third-class operator license, and radiotelephone third-class operator license with broadcast endorsement shall make a request in writing to the Engineer in Charge of the appropriate district office for a time and date to appear for such examination. The examination shall be administered only at the district office. Requests for examinations shall be made at least 2 weeks prior to the date on which the examination is desired.

4. Section 13.23, headnote and text is revised to read as follows:

§ 13.23 Examination form.

The written examination shall be in English and shall be written by the applicant in longhand except in the case of a blind applicant, where the examination questions shall be read orally to the applicant and the dictated answers recorded by a Commission district office employee authorized to administer the examination orally.

[FR Doc.71-13796 Filed 9-17-71;8:51 am]

[1] Commissioner Wells concurring in the result.

[Docket No. 18261; FCC 71-943]

LAND MOBILE CHANNELS IN U.S. URBANIZED AREAS

Order. Amendment of Parts 21, 89, 91, and 93 of the rules to reflect the availability of land mobile channels in the 470–512 MHz band in the ten largest urbanized areas in the United States.

1. In our Second Report and Order in this proceeding, 30 FCC 221 (1971), we adopted rules making certain UHF–TV channels available for assignment in the 10 largest urbanized areas. However, use of Channel 16 at Boston was deferred, pending resolution of matters involving Channel 16 of Rhode Island, Inc., permittee of Channel 16 at Providence, R.I.

2. In this connection, a proceeding was initiated in which the permittee (Channel 16 of Rhode Island) was ordered to show cause why its permit for Station WNET–TV should not be modified to specify Channel 64 in lieu of its present assignment. Order to Show Cause, FCC 71–648, Docket No. 19266. Following the issuance of this order, the permittee agreed to the subject modification, and, accordingly, we have, this day, adopted an order in the proceeding in Docket No. 19266 modifying its outstanding authorization to specify operation on Channel 64.

3. This action eliminates the need for the restriction on the use of Channel 16 in the Boston urbanized area, and, consequently, we are amending the rules to delete the proscription previously adopted by us. The rule changes necessary for this purpose are set forth below.

4. Authority for the promulgation of these amendments is contained in sections 4(i) and 303 of the Communications Act of 1934, as amended. In view of prior actions in this proceeding, compliance with the prior notice, procedure, and effective date provisions of 5 U.S.C. 553 is unnecessary.

5. *Accordingly, it is ordered*, That,

effective[1] September 21, 1971, Parts 21, 89, 91, and 93 of the rules and regulations are amended, as set forth below.

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

Adopted: September 8, 1971.

Released: September 13, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[2]
[SEAL] BEN F. WAPLE,
Secretary.

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

1. In § 21.501(l), Table A is amended by deleting footnote 1 from the listing for Boston, Mass., and the text of footnote 1 following the table is deleted, and the term, "reserved", is inserted in lieu therefore.

PART 89—PUBLIC SAFETY RADIO SERVICES

2. In § 89.123(b), Table G is amended by deleting footnote 1 from the listing for Boston, Mass., and the text of footnote 1 following the table is deleted, and the term, "reserved", is inserted in lieu therefore.

PART 91—INDUSTRIAL RADIO SERVICES

3. In § 91.114(b), Table G is amended by deleting footnote 1 from the listing for Boston, Mass., and the text of footnote 1 following the table is deleted, and the term "reserved", is inserted in lieu therefore.

PART 93—LAND TRANSPORTATION RADIO SERVICES

4. In § 93.114(b), Table G is amended by deleting footnote 1 from the listing for Boston, Mass., and the text of footnote 1 following the table is deleted, and the term "reserved", is inserted in lieu therefore.

[FR Doc.71-13797 Filed 9-17-71;8:51 am]

[Docket No. 19265; FCC 71-958]

PART 73—RADIO BROADCAST SERVICES

Television Table of Assignments; Los Angeles, Calif.

Report and order. In the matter of amendment of § 73.606(b) of the Commission's Rules, table of assignments, television broadcast stations (Los Angeles, Calif.); Docket No. 19265, RM-1788.

1. In this proceeding, instituted by notice of proposed rule making, FCC 71-642, released June 18, 1971, and published June 24, 1971, in the FEDERAL REGISTER at 36 F.R. at 12040, the Commission invited comments on a proposal of the Viewer Sponsored Television Foundation (VSTV) to assign UHF Channel *68 at Los Angeles, Calif., for a third reserved noncommercial educational television (ETV) assignment.[1] The petitioner (VSTV) is one of two competing applicants in hearing for the Los Angeles Channel *58 reserved ETV assignment.[2] The other reserved ETV assignment at Los Angeles is Channel *28, upon which Station KCET, licensed to Community Television of Southern California, has been operating since 1964 from a transmitter site on Mount Wilson. No comments were received on the proposal.

2. In addition to the two UHF reserved ETV assignments noted above (Channels *28 and *58), Los Angeles (1970 Census population, 2,816,061), situated in Los Angeles County (1970 Census population, 7,032,075), is assigned nine unreserved channels (7 VHF and 2 UHF), all of which are occupied by commercial stations operating from transmitter sites on Mount Wilson. Also, three other unreserved UHF channels are assigned in the area which are occupied by commercial stations, at Corona, Fontana, and Guasti, Calif., having transmitter sites on Mount Wilson. The operating Corona (KBSC-TV) and Fontana (KLXA-TV) stations also have been authorized to locate their main studios in Los Angeles. The Guasti Channel 46 station has not yet been activated. The two Los Angeles ETV channel assignments are, however, the only channels reserved for educational use in Los Angeles County, the nation's largest.

3. As the notice informed, the substance of the argument advanced by VSTV in support of its proposal for an additional Los Angeles ETV assignment was (1) that either Channel 68 or Channel 69 is technically feasible for assignment and use at Los Angeles on Mount Wilson and at the Mount Wilson transmitter sites specified for proposed Channel *58 operations by VSTV and the other competing applicant in hearing for Channel *58; (2) that it would be desirable and in the public interest to avoid a long and costly comparative hearing for Channel *58, and to make prompt provision for additional ETV service at Los Angeles possible, by providing an additional channel so that both pending applications for educational stations there could be granted; (3) that the community type of educational service which VSTV proposes is of high public interest and would be of particular significance to minority groups in the Los Angeles area (who will be represented on its governing board) and to low-income groups; (4) that the other competing applicant for Channel *58 (the Los Angeles Unified School District) proposes to provide an essentially different type of educational service which would be chiefly instructional programing, with a large amount for in-school use; and (5) that there is a need for the essentially dissimilar ETV services proposed by it and the other Channel *58 applicant in the Los Angeles area.

4. The assignment of Channel 68 to Los Angeles would meet all minimum mileage separation requirements of the rules and provide adequate site flexibility for use on Mount Wilson where all the Los Angeles stations have their transmitters located. Channel 68 is also the most efficient assignment in terms of impact on possible assignments elsewhere. Since assignment possibilities in the Los Angeles area are now extremely limited, with the assignment and reservation of Channel *68 for ETV use there, no additional channels would be available which could be assigned to Los Angeles to meet further demand and need for local commercial television services without other changes in existing assignments in other communities. Nevertheless, considering the number of channel assignments occupied by commercial stations which have been made available at Los Angeles and in the area, the varied ETV needs of a city and area of the size and importance of Los Angeles and Los Angeles County, as well as the present demand and need evidenced by the applications filed for Channel *58 for more than two ETV assignments to serve this area, we believe that, on balance, the assignment of Channel *68 reserved for ETV use at Los Angeles is warranted in the public interest at this time.

5. A public interest consideration entering into our decision to take such action at this time is that it may open up a way for a more expeditious disposition of the comparative hearing in progress on the pending applications for Channel *58 and for inauguration of needed additional ETV service in the Los Angeles area at an earlier date, should one of the Channel *58 applicants amend its application to request Channel *68 in lieu of Channel *58. In its petition proposing the assignment of Channel *68 to Los Angeles, VSTV indicated that it might

[1] The effective date of the amendments of Part 21, adopted in the Second Report and Order in Docket No. 18261, 36 F.R. 12477 (July 1, 1971), was postponed by Memorandum Opinion and Order (FCC 71-831), adopted Aug. 6, 1971. Accordingly, the effective date of the amendment to § 21.501(1), adopted herein, is also postponed until the basic rule amendments to Part 21 become effective.

[2] Commissioner Robert E. Lee concurring in the result.

[1] In its petition, VSTV proposed either UHF Channel *68 or *69 for a new reserved ETV assignment at Los Angeles. We invited comments on the Channel *68 proposal since our computer analysis indicated that Channel 68 is somewhat preferable to Channel 69 from an efficiency standpoint for a Los Angeles assignment.

[2] The applications of VSTV (File No. BPET-325, Docket No. 19101) and two other applicants (Los Angeles Unified School District, File No. BPET-306, Docket No. 19100; and Community Television of Southern California, File No. BPET-300, Docket No. 19099) for Channel *58 at Los Angeles were designated for hearing by Commission Order, FCC 70-1241, adopted November 25, 1970, 26 FCC 2d 566. The application of Community Television of Southern California was dismissed with prejudice by the Hearing Examiner by Order, FCC 71M-164, issued January 28, 1971, but the hearing is still in progress on the competing applications of VSTV and the Los Angeles Unified School District.

wish to so amend its pending Channel *58 application should the assignment be made, and it suggested that in any order assigning Channel *68 to Los Angeles, we also specifically provide that it may amend its Channel *58 application to specify Channel *68 instead. Since removal of one of the competing applications from hearing status for Channel *58 could be expected to simplify and speed up that hearing, we thing this suggestion has merit. We believe, however, that either Channel *58 applicant should be permitted to elect whether to remain in hearing status for Channel *58 or to amend its pending Channel *58 application to specify Channel *68 instead.

6. We are not agreeable, however, to VSTV's further suggestion that its pending Channel *58 application, if amended to specify Channel *68 instead, be given hearing status protection on Channel *68 in order to insure that it will not face further delays in processing, even though VSTV states that otherwise it would prefer to remain in hearing for Channel *58. Affording such protection to VSTV would foreclose other interested parties from applying for the new assignment, and we think the public interest is best served by following our usual practice of giving interested parties an opportunity to apply for a new channel.[1] In any case, we do not believe VSTV is on sound ground in requesting hearing status protection on Channel *68 because of anticipated delay in the processing of its application if it is so amended. Under the circumstances, we would order such processing to be expedited, and it would appear that it could be completed long before the comparative proceeding on the present Channel *58 applications could be concluded.

7. Accordingly, pursuant to the authority contained in sections 4(i), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, the Television Table of Assignments in § 73.606(b) of the Commission's rules is amended, effective October 22, 1971, to change the Los Angeles entry under the State of California to read as follows:

City	*Channel No.*
Los Angeles, Calif.....	2, 4, 5, 7, 9, 11, 13, 22, *28, 34, *58, *68

8. *It is further ordered*, That either Viewer Sponsored Television Foundation or the Los Angeles Unified School District may amend its pending application to specify Channel *68 instead of Channel *58 and by doing so surrender hearing status protection.[*]

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

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

Adopted: September 8, 1971.

Released: September 13, 1971.

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

[FR Doc.71-13798 Filed 9-17-71;8:50 am]

[1] It is noted that VSTV cites the Christian Broadcasting Association, Inc., case, 22 FCC 2d 410 (Memorandum Opinion and Order, adopted Apr. 15, 1970, FCC 70-392, Docket No. 18439, BPH-6437) as precedent for its request. However, in that case, where an application was retained in hearing status for a newly assigned FM channel, an important consideration was that this action was taken several months after the FM assignment was made, during which time other interested persons had had an opportunity to file for the channel and none had done so. The usual practice in television (where the new assignment represents an additional channel rather than simply a substitution of one for another) is to make the new channel open for all applicants. See, for example, Dallas and Tyler, Texas and Lawton, Oklahoma (Docket No. 16763), 6 FCC 2d 657, FCC 66-1155 (December 1966).

[*] The respective applications, filed and dockets numbers are: Viewer Sponsored Television Foundation, BPET-325, Docket No. 19101; Los Angeles Unified School District, BPET-306, Docket No. 19100.

[Docket No. 19149; FCC 71-944]

PART 89—PUBLIC SAFETY RADIO SERVICES

Single Sideband Radiotelephone Operation

Report and order. In the matter of amendment of Part 89 of the Commission's rules to provide technical standards for the use of single sideband radiotelephone emission on frequencies below 25 MHz and convert to single sideband operation.

1. On February 10, 1971, the Commission adopted a notice of proposed rule making in the above-entitled matter which was published in the FEDERAL REGISTER on February 18, 1971 (36 F.R. 3132). The dates for fitting comments and reply comments have passed.

2. Comments were filed by the Associated Public-Safety Communications Officers, Inc. (APCO). No reply comments were filed.

3. APCO supported the Commission's proposal to establish technical standards under Part 89 (Public Safety Radio Services) of the Commission's rules for single sideband (SSB) radiotelephone emission on frequencies below 25 MHz and to phase out double sideband radiotelephone operations in a 5-year program. In addition APCO urged that the Commission modify its proposal so as to provide use of the frequencies involved in the rule making for fixed, zone, and interzone radiotelephone communications on a secondary noninterference basis. The organization stated that zone and interzone communications between police agencies are for the most part accomplished through wire-line facilities which are far more vulnerable to service interruptions than radio communication links. APCO indicated that availability of the frequencies for point-to-point communications by public-safety agencies on a secondary noninterference basis, would provide a reliable alternative to wire-line facilities for medium-range, zone, and interzone police communications and would not impair growth of mobile communication use of the frequencies.

4. As stated in the notice, the purpose of our rule making was to establish technical standards for SSB radiotelephone operations under Part 89 and convert double sideband operations to SSB. The fixed, zone and interzone frequencies assignable in the Police Radio Service are restricted to A1 emission, as pointed out by APCO, and are not affected by the standards adopted herein. The modification proposed by APCO is considered beyond the scope of this proceeding. Accordingly, no action has been taken regarding this proposal and the rules have been adopted as they were proposed.

5. *Accordingly, it is ordered*, That, effective October 22, 1971, Part 89 of the Commission's rules is amended, as set forth below. Authority for adopting the rule amendments is contained in sections (4)(i) and 303(r) of the Communications Act of 1934, as amended.

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

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

Adopted: September 8, 1971.

Released: September 13, 1971.

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

Part 89 of the Commission's rules is amended as follows:

A new § 89.124 is added to read as follows:

§ 89.124 Single sideband radiotelephone technical specifications.

(a) The use of A3J emission (single sideband radiotelephony) in these services on frequencies below 25 MHz shall be in accordance with the provisions of this section, notwithstanding any other technical provisions of this part to the contrary.

(b) The frequency coinciding with the center of the authorized frequency band of emission shall be the assigned frequency. Both the authorized carrier frequency and assigned frequency shall be specified in the authorization. The authorized carrier frequency shall be 1400 Hz lower in frequency than the assigned frequency. Only upper sideband emission shall be used.

(c) The carrier frequency shall be maintained within 50 Hz of the authorized carrier frequency.

(d) The bandwidth occupied by the emission shall not exceed 3500 Hz. The emission designator shall be 3.5A3J. Authorization to use A3J emission is construed to include the use of tone signals or signalling devices whose sole function is to establish or maintain communications between stations.

(e) The maximum audiofrequency to be transmitted is 2800 Hz.

(f) Authorized power shall be in terms of peak envelope power, which is the average power supplied to the antenna transmission line by a transmitter during

one radiofrequency cycle at the highest crest of the modulation envelope, taken under conditions of normal operation. The maximum peak envelope power for single sideband operation is 2 kw.

(g) Except for short periods necessary for tuning and testing, the carrier frequency power shall be at least 40 db below the peak envelope power.

(h) The mean power of emissions shall be attenuated below the mean output power of the transmitter in accordance with the following schedule:

(1) On any frequency removed from the assigned frequency by more than 1.75 Hz up to and including 5.25 kHz: At least 25 db;

(2) On any frequency removed from the assigned frequency by more than 5.25 kHz and up to and including 8.75 kHz: At least 35 db;

(3) On any frequency removed from the assigned frequency by more than 8.75 kHz: At least 43 plus 10 $\log_{10}$ (mean output power in watts) db.

(i) In the case of regularly available double sideband radiotelephone channels, an assigned frequency for A3J emission is available either 1.6 kHz below or 1.4 kHz above the double sideband radiotelephone assigned frequency.

(j) The transmitter shall automatically limit the peak envelope power to that shown in the Radio Equipment List, or to the manufacturer's rated peak envelope power for the particular transmitter specifically listed on the authorization.

(k) A3J emission for radiotelephone is mandatory in all new radiotelephone systems operating on frequencies below 25 MHz on or after September 8, 1972, and in all systems 5 years after that date.

[FR Doc.71-13799 Filed 9-17-71;8:51 am]

TITLE 32A—NATIONAL DEFENSE, APPENDIX

Chapter I—Office of Emergency Preparedness

[OEP Economic Stabilization Reg. 1: Circular No. 14]

SUPPLEMENTARY GUIDANCE FOR APPLICATION

Economic Stabilization Circular No. 14

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 and policy statements 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 14th circular covers determinations and policy statements by the Council through September 16, 1971.

APPENDIX I

ECONOMIC STABILIZATION CIRCULAR NO. 14

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 fourteenth 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 and policy statements by 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.

400. *Price guidelines.*

401. *General guidelines*—(a) Food stamps: The Food and Nutrition Service (U.S. Department of Agriculture) has announced new regulations for its Food Stamp Program which will allow an increase in food stamp rations for most participants. In the lower ranges of eligibility, participants will receive more stamps this year; however, some participants in the upper eligibility ranges may qualify for fewer stamps. Any changes in the cost of food stamps resulting from this program revision are not violations of the freeze since the exchange of cash for food stamps is a welfare activity, rather than a market transaction.

(b) Mortgage points: The point system is a method of adjusting interest rates and, to some extent, of compensating the mortgage dealer. However, since the variation of points is principally a function of interest rate changes, points are not subject to the freeze. Nevertheless, in keeping with the spirit and intent of the President's wage-price freeze, the level of these points should be no higher than that during the base period.

(c) Intracorporate transactions: Intracorporate transaction prices are not frozen. However, the ceiling price for any external transaction must be calculated solely on the basis of extra-corporate transactions during the base period.

(d) Certain types of business costs, such as property taxes, employees' annual bonuses and paid vacations, are customarily liquidated all at once for a full year at a time. So are corporate dividends in a great many cases. The regulation does not necessarily mean that the amount actually paid during the freeze cannot exceed the amount of the last previous payment (cash basis accounting) nor does it mean that the amount accrued during the freeze cannot exceed the monthly rate of the last previous accrual (delivery accounting). The ceiling for payments of this nature is set by established corporate practice, whether accrued or cash basis. The only restriction on the computing of present ceilings is that, regardless of the basis selected, it must not be used to circumvent the spirit and intent of the freeze.

(e) Where a manufacturer increases the quantity size of packaging of his product for sale, his ceiling price for the new packaging size is determined by the highest price per unit of measure typically used, i.e., fluid ounce, pint, etc., at which he shipped or furnished his commodity to purchasers in a substantial number of transactions during the base period: *Provided*, That the price for the new packaging size does not exceed the ceiling price prevailing for comparable commodities of comparable packaging size in the same locality.

(f) Sellers of meat cuts may not change their pricing methods from an individual cut basis to a carcass basis even if the return per carcass is no higher than the return during the base period. This would be equivalent to permitting a retail store to raise the price of canned peaches if it simultaneously reduced the price of canned pears.

(g) The price at which an order was taken and secured by a deposit prior to August 15 does not constitute a transaction price for purposes of establishing the seller's ceiling price. There must be delivery of the merchandise to constitute a transaction.

(h) A domestic manufacturer sells components to another domestic manufacturer for installation on products earmarked for export by the latter. These components are specified by the foreign purchaser. The price of the components is subject to the freeze.

405. *Government-regulated industries.* (a) If a regulatory agency authorizes a public utility to discontinue or reduce service, the freeze does not preclude that discontinuance or reduction of service. However, a reduction in service must be matched by an appropriate reduction of the ceiling price.

(b) If a general utility rate increase had been approved prior to August 14, 1971, but was to become effective upon the expiration of certain contracts after August 14, the increase cannot go into

effect upon the expiration of such contracts. The ceiling price is fixed at that price at which there were substantial transactions prior to the freeze.

(c) If a pipeline company is to sustain a substantial dollar increase in purchased gas costs from a Canadian supplier during the "freeze" period, the company is not expected to absorb this increase with no relief. This increased cost for the gas may be passed on, cent for cent, so long as the gas is not transformed or incorporated in another product. If the gas is burned to generate power, it is considered transformed and the higher price for the gas may not be converted into an increase in the price for electric power.

500. *Wage and salary guidelines.*

502. *Specific guidelines.* (a) Stock options: No stock options issued by companies to their employees may be exercised unless the right to exercise those stock options expires during the freeze period. Nor, as previously ruled, can a new stock option be issued during the freeze.

(b) A construction worker is employed on a non-Federal project at X number of dollars per hour. The contractor shifts the worker from that project to a Federal project but he continues doing exactly the same work with exactly the same responsibilities. If the Davis-Bacon Act requires a higher rate of pay for that job on Federal contracts than he had been receiving, the worker's pay must be increased. The rate he is paid attaches to the job in that locality. The wages applied to Federal contract activities are those wages established by determinations of prevailing wages in the locality during the base period. If no rates had been established in the base period for that locality, a determination can be made but it must be calculated on the base period ending August 14.

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 17, 1971.

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

[FR Doc. 71-13920 Filed 9-17-71;12:56 pm]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 966]

TOMATOES GROWN IN FLORIDA

Notice of Proposed Expenses and Rate of Assessment

Correction

In F.R. Doc. 71-13251 appearing on page 18095 in the issue for Thursday, September 9, 1971, the amount reading "$111 million" in § 966.208(a) should read "$111,000".

[7 CFR Part 971]

LETTUCE GROWN IN LOWER RIO GRANDE VALLEY IN SOUTH TEXAS

Notice of Proposed Limitation of Shipments

Consideration is being given to the issuance of the limitation of shipments regulation, hereinafter set forth, which was recommended by the South Texas Lettuce Committee, established pursuant to Marketing Agreement No. 144 and Marketing Order No. 971 (7 CFR Part 971) regulating the handling of lettuce grown in the Lower Rio Grande Valley in south Texas. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

The recommendations of the committee are in accord with the committee's marketing policy and reflect its appraisal of the composition of the 1971-72 crop of lettuce in the Lower Valley and the marketing prospects for the season. The proposed grade, pack, and container requirements are needed in the interest of orderly marketing so as to improve returns to producers. The proposals with respect to special purpose shipments are designed to meet the different requirements for other than normal channels of trade.

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

§ 971.312 **Limitation of shipments.**

During the period October 19, 1971, through March 31, 1972, no person shall handle any lot of lettuce grown in the production area unless such lettuce meets the requirements of paragraphs (a), (b), (c), and (f) of this section, or unless such lettuce is handled in accordance with paragraphs (d) or (e) of this section. Further, no person may package lettuce during the above period on any Sunday.

(a) *Grade.* Seventy-five percent U.S. No. 1 or better quality, with not more than 10 percent serious damage including not more than 5 percent affected by decay on any portion of the head exclusive of the wrapper leaves. Individual containers may have not less than 60 percent U.S. No. 1 quality and not more than double the specified tolerance for serious damage, including not more than three heads affected by decay in any portion of the head exclusive of the wrapper leaves.

(b) *Sizing and pack.* (1) Lettuce heads, packed in container Nos. 7303, 7306, or 7313, if wrapped may be packed only 18, 20, 22, 24, or 30 heads per container; if not wrapped, only 18, 24, or 30 heads per container.

(2) Lettuce heads in container No. 85-40 may be packed only 24 or 30 heads per container.

(c) *Containers.* Containers may be only—

(1) Cartons with inside dimensions of 10 inches x 14¼ inches x 21$^{5}/_{16}$ inches (designated as carrier container No. 7303), or

(2) Cartons with inside dimensions of 9¾ inches x 14 inches x 21 inches (designated as carrier container Nos. 7306 and 7313), or

(3) Cartons with inside dimensions of 21½ inches x 16⅛ inches x 10¾ inches (designated as carrier container No. 85-40 flat pack).

(d) *Minimum quantity.* Any person may handle up to, but not to exceed two cartons of lettuce a day without regard to inspection, assessment, grade, size, and pack requirements, but must meet container requirements. This exception may not be applied to any portion of a shipment of over two cartons of lettuce.

(e) *Special purpose shipments.* Lettuce not meeting grade, size or container requirements of paragraph (a), (b), or (c) of this section may be handled for any purpose listed, if handled as prescribed in this paragraph. Inspection and assessments are not required on such shipments.

(1) For relief, charity, experimental purposes, or export to Mexico, if, prior to handling, the handler pursuant to §§ 971.120-971.125 obtains a Certificate of Privilege applicable thereto and reports thereon.

(2) For export to Mexico, if the handler of such lettuce loads or transports it only in a vehicle bearing Mexican registration (license).

(f) *Inspection.* (1) No handler may handle any lettuce for which an inspection certificate is required unless an appropriate inspection certificate has been issued with respect thereto.

(2) No handler may transport, or cause transportation of, by motor vehicle, any shipment of lettuce for which an inspection certificate is required unless each such shipment is accompanied by a copy of an inspection certificate or by a copy of a shipment release form (SPI-23) furnished by the inspection service verifying that such shipment meets the current grade, size, pack, and/or container requirements of this section. A copy of the inspection certificate, or shipment release form applicable to each truck lot shall be available and surrendered upon request to authorities designated by the committee.

(3) For administration of this part, an inspection certificate or shipment release form required by the committee as evidence of inspection is valid for only 72 hours following completion of inspection, as shown on such certificate or form.

(g) *Definitions.* (1) "Wrapped" heads of lettuce refers to those which are enclosed individually in parchment, plastic, or other commercial film (cf AMS 481) and then packed in cartons or other containers.

(2) "U.S. No. 1" and "serious damage" have the same meaning as in the U.S. Standards for Grades of Lettuce (§§ 51.2510-51.2531 of this title).

(3) Other terms used in this section have the same meaning as when used in Marketing Agreement No. 144 and this part.

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

Dated: September 14, 1971.

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

[FR Doc.71-13782 Filed 9-17-71;8:48 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19281; FCC 71-942]

[47 CFR Part 15]

ELECTRONIC VIDEO RECORDERS

Second Notice of Proposed Rule Making

In the matter of amendment of Part 15 of the Commission's rules to regulate the operation of a Class I TV device—a new restricted radiation device which produces an RF carrier modulated by a TV signal, and amendment of Part 1 to provide a fee schedule for type approval of such devices; Docket No. 19281, RM-1610.

1. In a notice of proposed rule making (36 F.R. 13793, July 24, 1971), adopted on July 14, 1971, the Commission set forth proposed rules to govern the operation of Class I TV devices. These are new restricted radiation devices which produce an RF carrier modulated by a television signal and may be used in the home and the school as well as having many commercial or industrial applications.

2. Among the proposed rules for Class I TV devices is a requirement that the field strength of radiation from the cabinet and connecting wires must not exceed 15 microvolts per meter at a distance of $\lambda/2\pi$ from the cabinet, where λ is the wave length in meters. In testing prototype units of such devices at the Commission's laboratory, certain practical difficulties were encountered in measuring the field strength of cabinet radiation at the permissible levels and distances proposed. These difficulties, in the Commission's experience, cast doubt upon the validity of measurement data made on such radiating sources as teleplayers at distances of $\lambda/2\pi$ at frequencies above about 50 MHz. The difficulties arise because of distortion of the field pattern associated with the combination of a short measuring distance with the relatively large dimensions of the teleplayer and of the dipole antenna used with the measuring instrument.

3. Accordingly, the Commission is undertaking a study of this matter with a view toward determining what revisions ultimately should be made in the rules for Class I TV devices and also in similar rules for other devices operating under Part 15. In this proceeding (Docket No. 19281) we are herein proposing a revised standard for cabinet radiation from Class I TV devices. The new proposed standard amends § 15.405(d) of the rules proposed by the Commission on July 14, 1971. It reads:

(d) The field strength of any electromagnetic energy radiated from a Class I TV device (from the cabinet, control circuits, and power leads) shall not exceed 15 microvolts per meter at a distance of $\lambda/2\pi$, or at a distance of 1 meter, whichever is the larger distance. (The distance $\lambda 2/\pi$ in feet is equal to 157 divided by the frequency in megahertz.)

4. Authority for the adoption of the rule herein proposed is contained in sections 4(i), 302, and 303(r) of the Communications Act of 1934, as amended.

5. Attention is invited to the Commission action in this proceeding of August 26, 1971, in which it extended the closing date for submission of comments to October 26, 1971, and for reply comments to November 8, 1971. Because of the revision to our proposed rules which we are making at this time, we are herein extending the time for submitting comments in Docket 19281 until November 26, 1971. Reply comments will be received until December 8, 1971.

6. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 14 copies of all statements, briefs, or comments shall be furnished to the Commission. Responses will be available for public inspection during regular business hours in the Commission's Docket Reference Room at its Headquarters in Washington, D.C.

Adopted: September 8, 1971.

Released: September 14, 1971.

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

[FR Doc.71-13800 Filed 9-17-71;8:50 am]

[47 CFR Part 73]

[Docket No. 19314; FCC 71-953]

TELEVISION BROADCAST STATIONS

Program Identification Patterns in Visual Transmissions

In the matter of amendment of Part 73, § 73.682(a)(22) of the Commission's rules and regulations concerning the inclusion of program identification patterns in the visual transmissions of telesion broadcast stations; Docket No. 19314, RM-1783.

1. Subparagraph (22) of paragraph (a) of § 73.682 of the Commission's rules and regulations presently reads:

(22) The intervals within the first and last 10 microseconds of lines 21 through 23 and 260 through 262 (on a "field" basis) may contain coded patterns for the purpose of electronic identification of television broadcast programs and spot announcements. No single transmission of such coded patterns shall exceed one second in duration. The transmission of these patterns shall not result in significant degradation of broadcast transmissions.

2. On April 12, 1971, International Digisonics Corp. (IDC) filed a petition seeking amendment of this rule, to read as follows:

The first and last 10 microseconds of the first six field lines measured from the top of picture (as used in § 73.699, Fig. 6) and the last six field lines measured from the bottom of picture (as used in § 73.699, Fig. 7) may contain identification patterns intended for the purpose of electronically identifying television program and commercial material. In order to allow for alignment tolerances, the patterns may occupy an additional three field lines at either the top or bottom of picture. No single transmission of identification patterns shall exceed one second in duration. The transmission of these patterns shall not result in significant degradation of broadcast transmission.

3. IDC presently offers a service to advertisers, advertising agencies, and other interested entities whereby they are provided periodically with computer printouts showing the stations broadcasting commercials prepared by them or in their behalf, and the dates and times these commercials were broadcast. This information is obtained through the interception, at unattended monitoring stations located near large centers of population, of television station broadcasts of recorded commercials, in which identification patterns intended for transmission in accordance with § 73.682 (a)(22) of the rules, and capable of actuating the monitoring apparatus have been included.

4. Since the effective date of the existing rule, May 25, 1970, numerous commericals have been prepared with identification patterns incorporated pursuant to specific instructions furnished by IDC, and many of these commercials have been broadcast. However, continuing difficulties have been experienced in transmitting identification patterns in accordance with the rule, i.e., in many instances, the transmitted patterns do not fall on the scanning lines prescribed by the rule, or the patterns occupy portions of lines in addition to those prescribed. In nearly all cases, such transmission difficulties have been experienced with commercials recorded on motion picture film. Such film presently constitutes the principal medium used in the preparation of commercials.

5. Many of the grosser deviations earlier found appear to have been contained by an active program followed by IDC aimed at refining the techniques for placing the patterns on film, and the instruction of film processors and broadcasters as to the procedures and precautions to be observed in the preparation and transmission of film containing identification patterns, and by the effectuation of an inspection and quality control program of such film. IDC nevertheless finds that even with sources of error minimized to the largest practicable extent identification pattern transmissions cannot be made to meet consistently the requirements of the present rule. Accordingly, it petitions for an amendment of the rule as set forth in paragraph 2, above.

6. The proposed rule differs from the present in two major respects:

(1) It specifies the vertical placement of the identification patterns on field lines measured from the top and bottom of the picture, rather than on numbered field lines, as does the present rule. This modification takes into account the fact that our rules do not specify the particular scanning line on which picture transmission must begin, but, rather prescribe a tolerance (which is substantial for monochrome transmission). Therefore, the placement of identification patterns with respect to picture information cannot be closely defined by the specification of the numbered lines on which transmission will occur.

(2) Under the present rule, the maximum vertical dimension of each identification pattern is three field lines. The proposed rule would permit each pattern to occupy portions of at least six field lines, with an additional three lines permitted for patterns at either the top or the bottom of the picture (but not both). This modification is proposed in the light of IDC's experience of the past year, and recognizes that the mechanical inaccuracies inherent in the placement and projection of the identification patterns make rigid adherence to the present rule infeasible. The "floating" three line tolerance, states IDC, is to provide for abnormally large film alignment errors which may sometimes occur in transmission.

7. Timely responses to IDC's petition were filed by the following entities:

Association of Cinema Laboratories (ACL).
Audicon Corp.
Columbia Broadcasting System, Inc. (CBS).
Meredith Corp.
National Association of Broadcasters (NAB).
Newhouse Broadcasting Corp.

On June 1, 1971, IDC filed a reply to these pleadings. On May 17, 1971, the Society of Motion Picture and Television Engineers (SMPTE) furnished the Commission with a report "prepared for the purpose of examining film standards, film production, and television broadcast procedures as they relate to the placement of coded patterns on film to be used after transmission via telecine for the monitoring of program material". While this report was apparently not filed as a response to the IDC petition, its contents have been noted, relied on, or taken exception to in several of the pleadings listed above. Accordingly, the SMPTE report is hereby incorporated into the record herein.[1]

8. These pleadings are substantial in content, in some instances including engineering information pertinent to the final resolution of this matter. Therefore, they will be included in the record of the rule making proceeding. They will be reviewed in detail at this time only with respect to their recommendations as to the future course of action by the Commission in this matter, and to provide assistance in framing the issues in the proceeding.

9. The replies generally reflect a dissatisfaction on the part of the respondents with the performance of the visual identification system over the past year, and a lack of confidence that its functioning in the future, pursuant to a rule amended as IDC proposes, would be notably more satisfactory. The courses of action recommended by the various respondents are as follows:

NAB would have us deny IDC's request for rule making and, apparently concurrent with such action, delete present § 73.682(a)(22) of the rules.

CBS recommends denial of the IDC petition, termination of the proceedings in Docket 18877 (rule making contemplating the use of an aural signal for program identification) and the institution of a broad inquiry "exploring the entire question of ancillary transmissions associated with television and radio programing". It suggests there are a number of other secondary uses to which the broadcast signal can be put, and that the Commission should not proceed piecemeal to provide for individual uses of the signal without an overall evaluation of the relative public interest aspects of other uses, and should make a coordinated approach, on a technical basis, to the nonconflicting authorization of those uses found to be most highly in the public interest. In any such evaluation, it urges that uses which benefit the public directly, or the broadcaster, should take precedence over those serving purely private interests.

The replies of ACL, Newhouse, Audicom, and Meredith assume that rule making is now necessary. Meredith urges that we pursue the matter by the issuance of a further notice of proposed rule making in Docket 18877, in which the Commission should consider, among other things, whether an aural program identification system alone might more satisfactorily serve any demonstrated need for such program identification. Audicom proposes a similar issue, but would explore it in a rule making proceeding generated by the IDC petition.

10. The action suggested by NAB is clearly inappropriate. Even though we might deny IDC's petition, the deletion of the existing rule without a formal proceeding would flout the due process requirements of the Administrative Procedure Act.

11. Insofar as CBS's proposal for an inquiry into alternative nonbroadcast uses of the broadcast signal is concerned, we believe that at some future time such an inquiry may be useful. However, it is time consuming, and will not deal directly with the problem which now confronts us. The Commission has previously determined that performance of the program identification function is, per se, in the public interest. It has also examined, to some extent, the relationship of this function as performed by visual methods to other proposed nonbroadcast uses of the television signal which, in the future, the Commission might consider authorizing in the public interest. It found that the employment of the television signal for program identification pursuant to the existing rule would be unlikely to limit substantially our freedom of action to provide for other uses which may be found appropriate (Report and Order in Docket 18605, paragraphs 54–59, 22 FCC 2d 547–548). We do not think that the proposed amendment of the rule brings into question the validity of these determinations.

12. An aural program identification system sufficiently satisfactory to offer an attractive alternative to the visual system may, in time, be developed, and its employment may be authorized, but this, it appears, will not occur in the immediate future, and may not occur at all. In the meantime, we are faced with the problem of deciding on what basis, if any, the visual identification system may continue to function. Accordingly, we have decided to issue this notice of proposed rule making, wherein the IDC proposal will be considered on its merits.

13. NAB argues, among other things, that the transmission of program identification information in the manner now authorized or as proposed herein involves a highly inefficient use of an electronic resource, e.g., that the information carrying capacity of the portions of the scanning lines utilized in the visual identification system is vastly greater than is or can be utilized in this system.

14. The redundancy involved, of course, stems to a very large extent from the fact that the system has been designed to function reliably with the program material and its identification patterns recorded on motion picture film. At any particular point in time, practical considerations may weight against the optimum employment of any particular portion of the radio spectrum for any particular use. Rules which recognize such practical considerations are not immutable, and characteristically are subject to amendment when technical developments and the more intensive demands for spectrum usage make such action possible and desirable.[2]

15. Newhouse devotes a major portion of its pleading to arguments that the existing rule provides an inadequate opportunity for licensee control over and consent to broadcast coded transmissions. While Newhouse, like other respondents, is concerned with the limitations which it is alleged are imposed on a licensee's ability to insure that his station's transmissions meets all technical rule requirements, its presentation also deals with the more general question of whether the adoption of the rule has resulted in a usurpation, in an important area, of the licensee's right and responsibility to control the content of all material broadcast by his station.

16. In the further notice of proposed rule making in Docket 18877 (FCC 71-152)[3] the Commission has provided a forum for the examination of the legal questions such as Newhouse has raised, and their consideration in this proceeding would be redundant. In our study of the comments in that proceeding, Newhouse's response in the instant case will be considered insofar as it bears on the issues there presented.

17. Upon examination of the positions of the petitioner and the respondents with respect to these issues we at this point can draw only one conclusion—that § 73.682(a)(22) cannot remain in our rules unchanged. All parties recognize that identification patterns on film cannot be consistently transmitted pursuant to the existing rule.

18. On the other hand, there is disagreement as to whether the rule,

[1] Subsequent to the filing of IDC's reply comment, the Commission received a letter from SMPTE in which it alleges that IDC's reply reflects an apparent misunderstanding of SMPTE's "comments", and offers to elaborate thereon "for the benefit of the Commission and its staff". NAB, in a letter dated June 28, 1971, suggests that we invite such elaboration for the benefit "of the Commission's staff and interested parties". IDC's letter of June 30, 1971, views the SMPTE proposal as a request for permission to file a reply to IDC's reply, a pleading not permitted by our rules. SMPTE will enjoy the opportunity to make any further presentation it desires in the rule making proceeding which this document initiates.

[2] For instance, rules governing frequency tolerances have been progressively tightened over the years, as equipment improvements have made more stable operation feasible, and the more intensive use of the spectrum has required such action.

[3] Amendment of Part 73 of the Commission's rules and regulations to permit the inclusion of coded information in the aural transmissions of radio and TV stations for the purpose of program identification; and possible regulations of the parties preparing or furnishing coded material for broadcast.

amended as IDC proposes, will provide sufficient latitude to accommodate identification pattern transmissions. It is IDC's contention that commercials on motion picture film containing identification patterns and issued after about April 1, 1971, will be transmitted in accordance with the rule. The respondents argue that because of the many variables involved in the production and transmission of filmed material, there can be no assurance of compliance with the proposed rule, or even with one which is less restrictive.

19. IDC asserts that while identification patterns transmitted in accordance with the proposed rule will intrude into the picture raster to a greater degree than the existing rule permits, nevertheless the intrusion will be insufficient to bring the patterns into the viewing area of the television receiver. In any event, the short duration of the pattern transmission make it unlikely, even if they are occasionally visible, that significant degradation of the television picture will result. The respondents contest this claim, arguing that the picture will be degraded by pattern transmissions, even if they are in accordance with the proposed rule.

20. The above represent the two principal areas of disagreement which must be resolved in this proceeding. Comments with supporting evidence should be directed principally to these points. However, there is another matter of importance which we believe should be examined with some care at this time. If the visual program identification patterns are to be properly transmitted the special efforts of two entities—the film processor and the station licensee—are required, neither of which derives any direct benefit from its effort. The respondents contend that the burdens placed on them are not light—they must observe tolerances in the processing and transmission of coded film which are much stricter than those necessary to insure completely acceptable picture transmission.

21. The broadcaster alleges that the onus on him is especially great, since he is responsible to the Commission for the observance of its technical rules. He is furnished with coded film on which pattern placement, because of the variables involved in film processing, is less than exact, and has no means for ascertaining that any particular film when subject to the further variations involved in its projection and transmission, which will occur unavoidably even though he has taken considerable pains to minimize them, will, in fact, be transmitted in accordance with the rules.

22. IDC takes the position that the demands placed on the film processor and broadcaster are not exorbitant, and the more exacting procedures which they must follow to minimize the possibility of improper pattern transmission will promote better and more uniform operating practices, for the benefit of all concerned. With its reply, IDC has submitted copies of letters from certain companies engaged in coded film preparation in support of its position, insofar as the role in the matter of these entities is concerned.

23. As evidenced by the periodic reports that IDC has submitted, the visual automatic identification system apparently has been found acceptable and useful by a rather large number of advertisers, and is filling a legitimate need of the industry. Nevertheless, we are concerned with the continuing viability of a system which depends in part for its successful functioning on the apparently reluctant cooperation of the film processor and broadcaster. After a year of intensive effort aimed at educating and persuading these entities to adopt the procedures which appear to be needed to effect pattern transmissions in some consistent manner, IDC finds it necessary to propose considerably larger transmission tolerances than were originally authorized. However, both film processor and broadcaster are skeptical that the identification system can operate even within these tolerances.

24. The major issues to be resolved in this proceeding therefore are as follows:

(1) Will identification patterns on motion picture film be transmitted consistently in accordance with the proposed rule?

(2) Will pattern transmissions in accordance with the proposed rule cause significant degradation of picture transmissions?

(3) Does the preparation and transmission of film containing identification patterns place an additional and continuing burden on film processor and broadcaster which is disproportionate to the benefits the system provides?

(4) Is the broadcaster effectively prevented from insuring that his station will operate in accordance with the rules by his practical inability to determine, prior to its actual use, that a film including identification patterns will be transmitted in accordance with the rules?

(5) In view of the findings made with respect to the issues above, should the amendment to § 73.682(a)(22) be adopted as proposed, adopted with some modification, or should the rule be deleted?

25. In the immediate future the Commission will issue a Public Notice to authorize the continued transmission of identification patterns during the course of this proceeding, and to specify a relaxed standard under which the transmitted pattern may occupy up to six field lines measured downward from the top of the picture and six field lines measured upward from the bottom of the picture.

26. Accordingly, it should be unnecessary for either the proponents or the opponents to the continued operation of the visual identification system to resort to opinion or speculation in any substantial degree in preparing comments in response to the first two questions set forth above. IDC has for several months been taking extensive samples of the actual transmissions of identification patterns by stations in the top 50 markets of the country, making video tape recordings of these transmissions and analyzing the results for identification pattern placement (e.g., see Figure 1, Third Interim Report, April 12, 1971). We expect it will continue this effort, and will file the results thereof with its comments in this proceeding. If any other interested party desires to undertake a similar program, IDC should make available to that party any information which will assist him in directing his monitoring efforts to those commercials in particular markets containing identification patterns. We believe that such observations, if carefully conducted and of sufficiently extensive scope, should provide the best evidence possible of the actual ability of the system to meet the interim standard or the proposed rule.

27. Similarly, the actual pattern transmissions should provide first hand information on the question of picture degradation. Pattern transmissions during the past year, many of which admittedly have not met the rules and have presumably fallen on some occasions in the viewing area of at least some television receivers, have not resulted in voluntary complaints or inquiries by viewers directed to the Commission. Individual licensees, however, may have received complaints. There may have been cases, of course, where viewers were annoyed, but were not troubled with sufficient frequency to be impelled to lodge a complaint. In some instances, viewers may have noted and have been annoyed by the pattern transmissions, but did not ascribe their appearance to deliberate transmissions by the station viewed. In any event, we have no evidence to rebut our finding made in the original proceeding that significant program degradation does not result from identification pattern transmission. It is suggested that parties may wish to systematically investigate this question during the pendency of the rule making proceeding, and report on the results of their investigations in their comments. Properly controlled surveys of the television audience, and, perhaps, panels made up of typical viewers are possible sources of pertinent information.

28. The program identification rule, which was adopted to facilitate the establishment of a "rapid, efficient, and accurate system for performing a function, now accomplished by slower, more laborious, more costly, and less accurate methods, which a number of entities deeply involved in television broadcasting consider to be highly important, if not esssential." (22 FCC 2d paragraph 41, p. 545). Advertisers, advertising agencies, and performers' unions were among the strongest proponents for the adoption of this rule. While we have received information periodically from IDC indicating steadily increasing employment of the system by advertisers, we have no specific knowledge as to what extent advertisers and other users of the IDC service have found it "rapid, efficient, and accurate" and have come to rely on it in lieu of older methods of program identification. We believe that information on this subject is necessary for a proper weighing

of the benefits gained against the burdens involved in the operation of the system. We invite, therefore, pertinent comments by the users.

29. The intensive efforts which have been made to achieve identification pattern transmissions in some consistent manner were not foreseen as necessary when the rule permitting such transmissions was adopted. A knowledge that the visual identification system could not be implemented without the institution of special and perhaps exacting procedures by all entities involved in film preparation and its transmission would have substantially affected our evaluation of the feasibility of the system. At this point of time, however, basic processing and alignment procedures presumably have been adopted, by all concerned, and, from a practical standpoint, the question presented is whether the demands of the identification system continue to place an inordinate burden on the film processor, and particularly the broadcaster, in their day-to-day operations. We request specific comment on this point.

30. We take particular note of the claim that the broadcaster is rendered powerless to insure that identification patterns will be transmitted in accordance with the rules, since he is unable to determine with what degree of exactitude the patterns have been placed on a particular film. Prescreening of film is recognized as a substantial means of solving this problem (although it is claimed not to be definitive, in all cases, since there may be some variation in successive runs of the same film through the same projector). It is rejected primarily as not always being possible because of scheduling requirements.[4] We will accept further comment on this matter. We agree a licensee should have some fairly simple and rapid means for predicting with some degree of certainty whether film containing identification patterns will be properly transmitted. We will accept comment on this point.

31. Accordingly, pursuant to the authority contained in sections 4(i) and 303 of the Communications Act of 1934, as amended, it is proposed to amend Part 73 of the Commission's rules as set forth above.

32. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules, interested persons may file comments on or before December 8, 1971 and reply comments on or before January 7, 1972. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

33. In accordance with the provisions of § 1.419 of the rules, an original and 14 copies of all comments, replies, pleadings, briefs, and other documents shall be furnished the Commission. Responses will be available for public inspection during regular business hours in the Commission's Broadcast and Docket Reference Room at its Headquarters in Washington, D.C.

Adopted: September 8, 1971.

Released: September 13, 1971.

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

[FR Doc.71-13801 Filed 9-17-71;8:50 am]

[4] There is a certain inconsistency in the broadcaster's emphasis on his responsibility for material broadcast over his station, and his rejection of prescreening. To the extent he accepts recorded material prepared by others and transmits it without first making himself aware of its specific contents (both identification patterns and program material), he would appear to be exercising other than complete responsibility for his station's transmissions.

[47 CFR Parts 2, 21, 81, 87, 89, 91, 93]

[Docket No. 19311; FCC 71-940]

DIGITAL MODULATION TECHNIQUES IN MICROWAVE RADIO

Notice of Inquiry

In the matter of inquiry into the use of digital modulation techniques in microwave radio, the desirability of imposing restrictions on the use of such techniques, and the possible amendment of Parts 2, 21, 81, 87, 89, 91, and 93 of the Commission's rules and regulations relative thereto.

1. Equipment manufacturers, carriers and the current and potential users of digital devices have expressed considerable interest in the use of digital modulation techniques in common carrier microwave operations. Commission approval of microwave systems employing digital transmission techniques has thus far been very limited in scope.[1] However, the supporting information contained in the filing for the authorized systems, in numerous pending applications, and in inquiries from equipment manufacturers and operators of data systems indicate that a strong interest in digital systems for relaying business information in digital form exists and that the demand for such service will greatly increase within the next 10 years. If this mode of operation expands, as it appears certain to, the type of services offered in a digital mode will certainly include voice and other analog communications. When compared to the equivalent voice circuit capability of frequency modulation wideband radio systems, using frequency division multiplex (FDM) now available for common carrier and private use, pulsed wideband radio systems, such as are represented by pulse code modulation (PCM) systems when used for voice transmission, thus far appear to be extravagant in their use of radio spectrum, a limited natural resource which is being rapidly exhausted. Technical data on file for the limited number of type accepted radio transmitting equipments utilizing PCM voice transmission confirms this inefficiency in use of radio frequency spectrum when the systems are used entirely for voice transmission. (See below.) Pulsed systems are also, according to some, a potential source of destructive radio interference to the FDM systems which currently populate the microwave bands. Certainly they present a different power distribution across the spectrum which they occupy. Therefore, it now appears appropriate for the Commission to consider establishing rules and standards which may be necessary to govern this mode of transmission in a manner that would be most beneficial to the public interest.

2. Proponents of digital transmission contend that there are advantages to be realized in utilizing a digital transmission mode as opposed to the use of current modes of transmission. Some of the alleged advantages are:

(a) The quality of transmission is nearly independent of the length of the network.

(b) A digital microwave radio system eliminates the necessity of having digital-analog/analog-digital conversion equipment when carrying digital traffic and will interface directly without signal impairment with cables equipped with the Bell System T1 or other similar PCM voice carrier[2] and with switching equipment. Exclusion of such conversion equipment would substantially reduce the cost of carrying digital traffic. New York Telephone Co. alleges that a saving of $1 million would be realized by employing the PCM system described in the appendix as opposed to a comparable FDM system.

(c) Digital systems have the capability of carrying encoded speech, telephone signaling, telegraphy, digital data, encoded video or visual information or any arbitrary mixture thereof with negligible intercircuit interference.

(d) With the use of PCM techniques, the same transmitting frequency can be utilized twice on the same transmission path carrying two channels of intelligence by simply changing the antenna polarization of each operation on the particular frequency. It is alleged that the antenna polarization discrimination thus obtained will be sufficient to permit operation without interference.

(e) Digital transmission's performance in the presence of intermodulation

[1] Only two digital operations on microwave radio (both common carrier), are known to be authorized at present. Other radio systems employing digital techniques have been type accepted, but are not yet employed in operational systems. A brief summary of typical operations and systems is attached below.

[2] The Bell T1 PCM carrier and other similar carrier systems are used extensively by telephone companies in local plant and generally provide 24 two-way 4 KHz voice channels or a 1.544 Mb/s digital capacity on two cable pairs. The New York Telephone Co. circuit discussed in the appendix would extend 20 T1 lines.

interference and thermal noise is relatively good; therefore, the employment of a digital operation reduces the potential of interfering situations between digital operations in close proximity, thereby reducing the problems in attempting to locate new station sites. This offers a means of more efficiently using the radio spectrum since it should permit double use of the same frequency within the same locale.

(f) Digital operation requires less transmitting power for quality service than is required for FDM.

3. The advantages claimed for the digital mode of operation could be an answer to a number of problems presently associated with current communication techniques and it warrants consideration as a means of providing additional communication facilities. However problems of inefficient spectrum utilization and a possibly greater potential for harmful interference into existing services appear to exist. Therefore, we request interested parties to submit comments as to what technical restraints, if any, should be imposed upon the expected heavy filings proposing the use of digital modulation techniques for use with microwave systems. In addressing this issue, parties are asked to give, but not limit, their comments with regard to the following subsidiary questions.

(a) What is the expected technical impact of digital modulation systems on conventional FM operations?

(b) If problems exist, can they be controlled? How?

(c) What technical limitations should be imposed?

(d) Should this transmission technique be authorized in all microwave bands, only certain bands (e.g. 11 or 12 GHz) or should it be excluded from the presently utilized bands at 2, 4, 6, 11, and 12 GHz and relegated to bands above 13 GHz?

(e) Would it be advantageous to establish a minimum required voice channel or bit capacity for digital systems? If so, what should be the minimum capacity? Should said capacity be related to the occupied bandwidth? What relationships would be appropriate?

(f) If phase shift keying is proposed, should there be a lower limit on the number of phases employed in the interest of conserving bandwidth? What is the optimum trade-off of bandwidth reduction by multiphase modulation versus greater sensitivity to interference of such modulation methods?

(g) Should regeneration of the bit stream be required at every relay, (or at every "n" relay) in the interest of making systems less sensitive to interference?

(h) Should digital operations be confined to certain locales or to certain services (i.e. Pt/Pt Microwave Fixed, Satellite, Private Microwave, etc.)?

(i) Would it be in the public interest to limit digital transmission to the carriage of digital data only (prohibit voice carriage over such facilities)?

(j) What considerations should be given and methods employed in calculating the necessary bandwidth required for microwave systems employing digital modulation techniques?[2] The various keying methods, i.e. phase shift keying, frequency shift keying, etc., should be considered.

To the extent that information is readily available, we also request comments on the following issues:

(k) What types of digital transmission techniques are likely to be used and what growth of digital transmission applications is expected over the next 5-, 10-, and 20-year periods?

(l) What impact will technology have on digital transmission techniques and applications?

(m) Manufacturers of microwave systems, certain carriers and some users of microwave systems of newer design claim greatly improved reliability over older conventional microwave systems, and the proponents of all digital systems claim even better reliability over FDM operations. What data is available to substantiate these claims?

4. Authority for this proceeding is contained in sections 4(i), 303, and 403 of the Communications Act of 1934, as amended.

5. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before November 15, 1971, and reply comments on or before December 16, 1971. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

6. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 14 copies of all statements, briefs, or comments filed shall be furnished the Commission.

Adopted: September 8, 1971.

Released: September 15, 1971.

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

MICROWAVE FACILITIES UTILIZING DIGITAL TRANSMISSION TECHNIQUES

1. The New York Telephone Co. was recently granted authority on a developmental basis (File Nos. 882 and 883-C1-P-71) to establish a communication circuit using pulse code modulation (PCM) techniques between Staten Island and Brooklyn, N.Y. to provide emergency relief for troubled communications in the New York City area. This system will use recently type accepted equipment which has a rated capacity for 480 4 KHz voice channels in a PCM mode or a 15.8 Mb/s digital capacity in an occupied bandwidth of 28 MHz. FDM radio systems are available which are rated for 1200 to 1800 4 KHz voice channels in similar bandwidths.[1]

2. The Western Union Telegraph Co. was recently authorized to construct new 6 GHz microwave facilities between Cincinnati, Ohio and Atlanta, Ga. (File Nos. 5623 through 5633-C1-P-70) using an equipment combination which will provide a "hybrid" digital/analog capability of 6.3 Mb/s time division multiplex (TDM) digital capacity plus 600 FDM voice channels. The system's occupied bandwidth is 16 MHz.

3. A.T. & T. proposes use of modulation equipment for microwave transmitters which would provide three picturephone channels, each in a 6.3 Mb/s bit stream, or a 20 Mb/s digital capacity on a 4 GHz channel. The system is type accepted and its occupied bandwidth is 12 MHz.

4. Applications pending before the Commission propose the use of a digital modulator which will provide a 21.5 Mb/s digital capacity on a microwave channel when used with certain 6 or 11 GHz transmitters. The system is type accepted and its occupied bandwidth is 22.6 MHz.

5. Another manufacturer offers a type accepted 11 GHz system utilizing one of their transmitters with a second manufacturer's modulator and filter to provide a 19.2 Mb/s digital capacity or 288 voice channels in an occupied bandwidth of 20 MHz. This again can be compared with an FDM system which would carry 1200 channels or more.

[FR Doc.71-13802 Filed 9-17-71;8:51 am]

[2] See definition in § 2.202 of the Commission's rules.

[1] Several manufacturers offer such systems. An example at 11 GHz is the Raytheon KTR 3A-11 equipment which is rated for an 1800 voice channel capacity in a similar bandwidth. Many manufacturers make comparable 6 GHz systems.

[47 CFR Part 73]

[Docket No. 19316; FCC 71-955]

FM BROADCAST STATIONS

Table of Assignments; Wisconsin Dells, Wis., etc.

In the matter of amendment of § 73.202, *Table of Assignments*, FM broadcast stations (Wisconsin Dells, Wis., Ocean City, Md., Fulton, Ky., Cabo Rojo, P.R., Lobelville, Tenn., Jacksonville, Fla., and Steamboat Springs, Colo.).

1. Notice of proposed rule making is hereby given concerning the amendment of § 73.202(b) of the Commission's rules, the FM Table of Assignments, as listed and discussed below. Except where indicated, all population figures are from the 1970 U.S. Census. Briefly, the petitions involve request for:

(a) First assignments at Cabo Rojo, P.R.; Lobelville, Tenn.; and Wisconsin Dells, Wis. The Wisconsin Dells proposal would require changes in the channel assignments of two existing stations.

(b) A second assignment at Ocean City, Md., without affecting any present assignments.

(c) A seventh assignment at Jacksonville, Fla.

(d) A change in the assignment at Steamboat Springs, Colo., which would permit a Denver station to relocate its transmitter site.

(e) Change in the assignment at Fulton, Ky., which would eliminate interference to television reception.

2. The proposals summarized above are advanced herein for comments. In some cases, as discussed below, we have substantial reservations about whether the proposed amendments should be adopted, and the fact that comments are invited does not indicate a present Commission view, even tentatively, that they should be.

3. *Wisconsin Dells, Wis. (RM–1716).* In a petition filed November 12, 1970, Obed S. Borgen seeks assignment of a first Class A FM channel to Wisconsin Dells, Wis. The community is located in the northwest corner of Columbia County, and bordered by three counties: Sauk, Juneau, and Adams. The 1970 Census indicates that Wisconsin Dells has a population of 2,381 persons, and Columbia County, a population of 41,143 persons. There is one daytime-only AM station, licensed to the petitioner, in Wisconsin Dells. The requested channel would be the second FM assignment to Columbia County.

4. Borgen contends that Channel 296A may be assigned to Wisconsin Dells by making changes in the assignments of two communities. He suggests that changes could be made as follows:

City	Channel No.	
	Present	Proposed
Wisconsin Dells, Wis		296A
Dodgeville, Wis	296A	257A
Platteville, Wis	257A	296A

Since the two assignments which are presently occupied, would have to be changed under the proposal, Borgen states that he will reimburse the licensees of Station WDMP–FM, Dodgeville, and WSWW–FM, Platteville, for any reasonable expense they might incur in changing frequency.

5. Since Wisconsin Dells has only a daytime-only AM station, the assignment of the requested channel would provide it with an opportunity to acquire a first full-time local aural facility. Thus, it would be in the public interest to consider this proposal.

6. *Ocean City, Md. (RM–1719).* Commercial Radio Institute, Inc. (Commercial Radio), requests assignment of Channel 260 to Ocean City, Md., in a petition for rule making filed November 24, 1970. The channel could be assigned there without altering other assignments in the Table. The 1970 Census shows Ocean City as having a population of 1,334 persons; the community is located in Worcester County, Md., population 23,826. There is one full-time standard broadcast station in Ocean City. Although Channel 284 is assigned to Ocean City, it is utilized as a dual city assignment: Ocean City-Salisbury, Md., Station WBOC–FM. The requested assignment would be the third FM channel for Worcester County.

7. Commercial Radio asserts that Ocean City has available only two local radio services, but there is no FM assignment solely for Ocean City; and that there is a vital need for more diversity in the broadcast media in Ocean City, whose population approximates 1,344 year-round residents and swells to nearly 300,000 during the summer months. It believes that a full-time FM radio service for Ocean City would offer a much broader range of coverage for the problems, needs and interests of Ocean City and its surrounding area, and would be a vital source for the dissemination of information of public affairs, governmental, civic, and social activities, both to the native citizens and temporary residents.

8. The petitioner's preclusion study indicates that the assignment of Channel 260 at Ocean City would foreclose the use of Channel 257A and Channel 261A. The precluded areas include a number of communities, larger than Ocean City, where FM channels could be assigned. Commercial Radio states that a brief study indicates that other Class A channels could be assigned to the areas affected, but it fails to mention the specific channels. To a community the size of Ocean City, we would normally assign a Class A channel. It is noted that either one of the precluded channels could also be utilized there. Since Commercial Radio is seeking assignment of a Class B channel and we are not totally persuaded that such an assignment is warranted here, we would require it to submit a coverage showing based on the standards set forth in the Decision in Docket No. 17095, Roanoke Rapids, N.C., et al., FCC 67–948, 10 R.R. 2d 1777 (1967), and compare the coverage with an assumed maximum Class A facility at Ocean City, Md. In the meantime, we will set forth a proposal with alternative channel assignments, with final determination to be made at a later date. Thus, we tentatively propose to assign either Channel 257A or Channel 260 to Ocean City, Md.

9. *Fulton, Ky. (RM–1726).* In a petition filed December 8, 1970, Ken-Tenn Broadcasting Corporation (Ken-Tenn), licensee of Station WFUL–FM, Fulton, Ky., requests a change in its channel assignment. Station WFUL–FM is licensed to operate on Channel 285A. Fulton is a community of 3,154 population and has one other aural broadcast facility: daytime-only AM station WFUL, also licensed to the petitioner. It is claimed that the operation of petitioner's FM station causes interference to the reception of television Station KFVS–TV, Cape Girardeau, Mo., Channel 12, in recently built homes located in the area near its transmitter site. Since its FM station presently operates with 500 watts, e.r.p., Ken-Tenn contends that any future plans to increase the power would be precluded. Ken-Tenn thus requests a change in its assignment from Channel 285A to Channel 257A. Channel 257A may be assigned to Fulton without requiring changes in other assignments.

10. The type of interference concerned here would be likely to result from the radiation of second harmonic signals from an FM transmitter, or the second harmonic signal generated within the television receivers under the influence of a strong fundamental signal of an FM station. However, before favorable consideration may be given to the Ken-Tenn proposal, we would need more information as to the efforts made by the petitioner to alleviate the interference problem and the success of these efforts. As the number of FM stations increases, we have found that changing channels to eliminate such interference problems leads to an inefficient allocation plan, particularly in areas of the country where assignments are rather scarce, which is usually true east of the Mississippi. Accordingly, petitioners have a substantial burden in establishing the need for a channel substitution in such cases. Among other things, Ken-Tenn will be expected to show that the nature and extent of the expected problem require the substitution, that its proposal would not result in any significant loss of potential FM service and that it would not shift the problem to another community or to another television station. We tentatively set forth its proposal for consideration herein.

11. *Cabo Rojo, P.R. (RM–1732).* David Ortiz Radio Corp., licensee of daytime-only AM station WEKU, requests assignment of Channel 221A at Cabo Rojo, P.R., in a petition filed January 5, 1971, and amended January 29, 1971. Cabo Rojo is located in the extreme southwest corner of Puerto Rico in the municipio of Cabo Rojo. The 1970 census shows that the community has 7,158 persons and the municipio 25,569 persons. The requested channel would provide a first full time aural broadcast service to the community. Channel 221A meets the minimum mileage separation requirements and may be assigned to Cabo Rojo without any other changes in the table of assignments.

12. The petitioner asserts that an FM station would be the only means by which the community would be able to acquire a first local nighttime service. Thus it appears that it would be in the public interest to consider the proposal to assign Channel 221A to Cabo Rojo, P.R.

13. *Lobelville, Tenn. (RM–1738).* Mid-South Professional Service, Inc. (Mid-South), filed a petition for rule making on January 14, 1971, for assignment of Channel 232A to Lobelville, Tenn. Lobelville, a community of 773 persons, is located in Perry County (5,238 population). Presently, there is no broadcast facility assigned to Lobelville or Perry County. Channel 232A may be assigned to Lobelville if the transmitter site were to be located approximately 5 miles west of the Lobelville reference point.[1] Mid-South contends that it has obtained a suitable site about 4.4 miles west of the city, meeting the minimum mileage separation requirements, from which there is a clear view of Lobelville.

14. In support of its request, Mid-South sets forth the characteristics of Lobelville and the surrounding area. It attests to the fact that there has been encouraging economic growth in Lobelville due to the presence of several industries, and that there are a number of factors indicating the growing nature of the area, such as a new motel, airstrip, improvement in sewer and water services,

[1] The restriction is due to the assignment of Station WJJM–FM at Lewisburg, Tenn., on Channel 232A.

etc. It contends that there is a need for a local aural service in Lobelville, and that a station here would benefit other nearby communities which are also without local aural service.

15. Due to other assignments on Channel 232A and the adjacent channels, this channel can be assigned only in a limited area. Except for Lobelville, there are no cities or towns within this area of any substantial size where Channel 232A may be used. The Mid-South requested assignment would be for a community of 773 persons. Since the assignment of an FM channel to Lobelville will provide the community, and the county in which it is located, with an opportunity to acquire its first local aural broadcast service, it would be in the public interest to consider the Mid-South proposal.

16. *Jacksonville, Fla. (RM–1745).* Mel Lin, Inc., in a petition filed February 10, 1971, seeks assignment of Channel 292A to Jacksonville, Fla. The channel may be assigned there without requiring changes in other assignments. In 1967, Jacksonville was made into a consolidated city and included the entire Duval County. The 1970 census indicates that the population of Jacksonville and Duval County is 513,439. In the consolidated city of Jacksonville, there are 12 AM stations, of which seven are full time, six FM stations, and four commercial television stations in operation.[2]

17. In support of its request, Mel Lin contends that the additional radio service would meet unsatisfied community needs; that the Commission, in its decision denying petitioner's application for the nighttime operation of its AM Station WOBS, recognized the needs of the black people bereft of a local nighttime service designed to serve their needs; and that it intends to broadcast programs substantially similar to that now provided by WOBS during daytime hours. It asserts that Jacksonville is now Florida's largest city both in population and geographic size, and is a major metropolitan industrial and economic center of the United States.

18. The petitioner's preclusion study indicates that the requested assignment to Jacksonville will only preclude the use of Channel 292A in a limited area. Mel Lin contends a number of the communities within the precluded area have existing services or allocations of their own, and other communities are either part of Jacksonville or of such small size as to present no realistic possibility for use of Channel 292A. It asserts that, in any event, there is one other Class A channel which is not presently allocated to any community and which could be used in one of these towns. However, it failed to specify the channel.

19. In a community of the size of Jacksonville, Fla., we would normally assign from six to 10 FM channels. Jacksonville (as now constituted) presently has six assignments. It appears that there are no Class C channels available which could be employed there without extensive shuffling of existing assignments, but that a Class A channel, however, is available. Due to consolidation of the city of Jacksonville to include the entire Duval County, a Class A station, operating with maximum facility, would not be able to provide the requisite 70-dbu signal over the entire community.[3] Although a Class A channel here is not a totally desirable assignment, in view of the expressed need for an additional channel, we would consider such an assignment as being in the public interest, if it can be shown that the requisite city-grade 70-dbu signal would encompass most of the urban areas of Jacksonville.[4] *Broadcasting, Inc.*, 20 FCC 2d 713, 717 (1969).

20. *Steamboat Springs, Colo. (RM–1749).* In a petition filed February 12, 1971, Armstrong Broadcasting Corp., licensee of Station KOSI–FM, Denver, Colo. (Armstrong) operating on Channel 266, requests a change in the assignment at Steamboat Springs, Colo., from Channel 265A to Channel 244A. It appears that Armstrong filed its petition to eliminate a possible short-spacing as it was looking toward moving its transmitter to a site on Lookout Mountain, located west of Denver, in order to improve its FM service coverage area. On July 21, 1971, the Armstrong application (BPH–7505) to change the transmitter site was granted. Since the operation of Station KOSI–FM from the new site would result in restricting the future Steamboat Springs applicant's selection of a site, the assignment there should be changed. Channel 244A may be assigned to Steamboat Springs without affecting any other assignments and would comply with the provisions of § 73.207(a) of the rules. At present, there is no application on file seeking the use of Channel 265A at Steamboat Springs. We thus propose to change the assignment at Steamboat Springs, Colo., from Channel 265A to Channel 244A.

21. *Showings required.* Comments are invited upon the various proposals discussed above and listed below. As indicated, in some cases the Commission has reservations or questions concerning the proposal, and proponents of the proposed assignment will be expected to answer them. More generally, the proponents of the various proposals contained herein are expected to file comments, even if they do little more than resubmit or refer to their petitions. They are expected, among other things, to state their intention to apply for the channel if assigned, and, if authorized, to promptly build their stations. Failure to make these showings may result in denial of the proposals.

22. *Cutoff procedure.* As in other recent FM rule making proceeding, the following procedures will govern:

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered, if advanced in reply comments.

(b) With respect to petitions for rule making which conflict with any of the proposals in this notice, they will be considered as comments in the proceeding, and public notice to this effect will be given, as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision herein.

23. In view of the foregoing, subject to the conditions and reservations set forth hereinabove in certain respects, and pursuant to authority found in sections 4(i), 303 (g) and (r) of the Communications Act of 1934, as amended, it is proposed to amend § 73.202(b) of the Commission's rules, the FM Table of Assignments, as follows (where indicated by footnote indicator below, the assignment must be used at a short distance outside of the specified city):

City	Channel No.	
	Present	Proposed
Steamboat Springs, Colo.	265A	244A
Atlantic Beach, Fla.	285A	
Jacksonville, Fla.	236, 241, 245, 256, 275, 285A	236, 241, 245, 256, 275, 285A, 292A
Fulton, Ky.	285A	257A
Ocean City, Md.	284	237A or 260, and 284
Cabo Rojo, P.R.		221A
Lobelville, Tenn.		232A [1]
Dodgeville, Wis.	296A	257A
Platteville, Wis.	257A	296A
Wisconsin Dells, Wis.		296A

[1] Proposed assignment at Lobelville, Tenn., must be used at a point approximately 5 miles west of the community.

24. *It is ordered,* Pursuant to section 316 of the Communications Act of 1934, as amended, that, if the assignments above which involve changes in the channels of existing stations are concluded to be in the public interest and are adopted, the following licensees shall show cause why the licenses of their station should not be modified to specify the new channels instead of their present channels, as indicated below (subject to reimbursement of the reasonable costs of changing channels by the party which becomes the permittee on the new assignment thus made possible):

Station and location	Licensee	Channel	
		Present	Proposed
WFUL–FM, Fulton, Ky.	Ken-Tenn Broadcasting Corp.	285A	257A
WDMP–FM, Dodgeville, Wis.	Dodge-Point Broadcasting Co.	296A	257A
WSWW–FM, Platteville, Wis.	Southwest Wisconsin Co., Inc.	257A	296A

[2] Jacksonville, Fla., has five Class C assignments in the FM table. Atlantic Beach is also located in Duval County and has Channel 285A assigned to it. The channel would be incorporated into the Jacksonville assignments because of the consolidation.

[3] A Class C station would be able to comply with § 73.315 of the rules.

[4] Mel Lin insists that, for purposes of § 73.315(a), the city limits of Jacksonville as they existed prior to consolidation should be determinative.

25. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules, interested persons may file comments on or before October 22, 1971, and reply comments on or before November 2, 1971. All submissions by parties to this proceeding, or persons acting in behalf of such parties, must be made in written comments, reply comments or other appropriate pleadings.

26. In accordance with the provisions of § 1.419 of the rules, an original and 14 copies of all comments, replies, pleadings, briefs, and other documents shall be furnished the Commission. Responses will be available for public inspection during regular business hours in the Commission's Broadcast and Docket Reference Room at its headquarters in Washington, D.C.

Adopted: September 8, 1971.

Released: September 13, 1971.

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

[FR Doc.71-13803 Filed 9-17-71;8:52 am]

[47 CFR Part 73]

[Docket No. 19315; FCC 71-954]

FM BROADCAST STATIONS

Table of Assignments, Hilton Head Island, S.C., etc.

In the matter of amendment of § 73.202(b), *Table of Assignments, FM broadcast stations* (Hilton Head Island, S.C., Onawa, Iowa, Emmett, Idaho, Clinton, Miss., Wanchese, N.C., Kewaunee, Wis., Sullivan, Ill.)

1. Notice of proposed rule making is hereby given concerning the amendment of § 73.202(b) of the rules, the FM table of assignments, to add first channel to the above-listed communities which now have no assignments, as has been requested in the rule making petitions listed above. In each of the communities, there is one proposal for a Class A assignment. With one exception, the petitions are unopposed.[1] Population figures are from the 1970 U.S. census (preliminary or final) reports.

2. Except for a few petitions which involve changes in the present assignments, conflicts with other requests, substantial oppositions, or other problems, this document covers most of the FM petitions accepted for filing prior to June 30, 1971, which request Class A channels as first FM assignments in the respective communities, and require no other changes in the table. In the preparation of this notice, the Commission's staff has again deviated to some extent from the general practice of processing FM petitions in order of filing. This has been done in order to permit more expeditious consideration of a group of proposals which in general are not expected to present substantial problems or require extended deliberation, and which have the obvious merit of providing the opportunity for a first FM station in these communities.

3. Except for Hilton Head Island, S.C., and Wanchese, N.C., all of the communities listed above have populations of more than 2,500; most are considerably greater. Of the seven communities, six have no AM station assigned and one has a daytime-only AM station. The census reports, at the present time, have not included any figures for Hilton Head Island and Wanchese. They are located on the Atlantic coast and are summer resort communities. Hilton Head Island does not have an AM station; Wanchese has a daytime-only station. We are of the view that all of the above listed proposals warrant consideration in rule making. However, in the cases discussed individually below, the communities are located in Standard Metropolitan Statistical Areas (SMSA) or are otherwise situated close to larger centers with AM and FM outlets. Because of this situation, we have reservations at this time about whether the proposed assignment should be made, and a showing in each of these instances will be required.

4. *Communities in Standard Metropolitan Statistical Areas.* One of the communities listed is in an SMSA, namely Clinton, Miss. (Jackson). As indicated earlier in similar situations, the proponents of the assignments must establish that use of the channel as requested is preferable to its use in another community in the general area, farther removed from the main city and its multiple AM and FM services. This requires the submission of a "preclusion showing," showing what impact the proposed assignment would have on potential uses of the same channel and the six adjacent channels in other places, particularly those of substantial size now without FM assignments; and, to the extent there is such a preclusionary impact, what other channels could be assigned to such places. See the report and order in Docket No. 18905, Millington, Tenn. et al., FCC 70-1260, 20 RR 2d 1649, 26 FCC 2d 575 (1970); affirmed FCC 71-151 (1971).

5. *Individual situation.* In one other case, while the community is not located in an SMSA, it is located close to a larger city and presents similar questions which should be answered by the petitioner before affirmative action can be taken. As noted above, Hilton Head Island, S.C., is a resort community and is located in Beaufort County, S.C. However, it is located close to Savannah, Ga., which has six Class C FM channel assignments as well as six standard broadcast stations. Therefore, the proponent of this assignment should submit a preclusion showing of the type described in paragraph 4, supra.

6. *Showings required.* We have set forth in paragraphs 4 and 5, the need for the submission of additional information by some of the proponents, failing which their requests are subject to denial. More generally, the proponents of any of the proposals covered herein should submit comments in response to this notice, even if they do little more than resubmit or incorporate by reference their petitions, and they should indicate their intention to apply for the channel if assigned, and to built the station if authorized. Failure to file may lead to denial of the request.

7. *Cutoff procedure.* As in other recent FM rule-making proceedings, the following procedures will govern:

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered, if advanced in reply comments.

(b) With respect to petitions for rule making which conflict with any of the proposals in this notice, they will be considered as comments in the proceeding, and public notice to this effect will be given, as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision herein.

8. In view of the foregoing, pursuant to authority contained in sections 4(i), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, it is proposed to amend § 73.202(b) of the Commission's rules, the FM table of assignments, to add the following entries. A footnote indicator indicates a situation in which the channel proposed will have to be used at a location outside of the community mentioned to meet the minimum mileage separation requirements.

City	*Channel number*
Emmett, Idaho	269A.
Sullivan, Ill.	[1] 292A.
Onawa, Iowa	292A.
Clinton, Miss.	228A.
Wanchese, N.C.	237A.
Hilton Head Island, S.C.	292A or 285A.
Kewaunee, Wis.	224A.

[1] The Sullivan, Ill., assignment must be used 6 miles northeast of the community.

9. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules, interested persons may file comments on or before October 22, 1971, and reply comments on or before November 2, 1971. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings.

10. In accordance with the provisions of § 1.419 of the rules an original and 14 copies of all comments, replies, pleadings, briefs, and other documents shall be furnished the Commission.

11. Responses will be available for public inspection during regular business hours in the Commission's Broadcast and Docket Reference Room at its headquarters in Washington, D.C.

Adopted: September 8, 1971.

Released: September 13, 1971.

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

[FR Doc.71-13804 Filed 9-17-71;8:52 am]

[1] The petition requesting Channel 228A at Clinton, Miss., filed by Mississippi College, suggests a desire to have the channel reserved for educational purposes. Any such limitation is opposed by another prospective applicant. In any event, any such limitation would be inconsistent with the College's proposal to carry commercials.

[47 CFR Part 73]

[Docket No. 19317; FCC 71-956]

FM BROADCAST STATIONS

Table of Assignments, Decatur and Rantoul, Ill., etc.

In the matter of amendment of § 73.202, *Table of Assignments, FM broadcast stations* (Decatur and Rantoul, Ill.; Santa Rosa, Calif.; Duluth and Cloquet, Minn.; Ladysmith, Wis.; Enfield, Conn.; Greenfield and Northampton, Mass.).

1. Notice is hereby given of the institution of this proceeding to consider proposed amendments to the FM Table of Assignments, § 73.202(b) of the Commission's rules, for the above-listed communities. This action is taken in response to petitions for rule making, whose petitioners are identified and their proposals described briefly below.

a. *RM-1686.* Petition, filed September 4, 1970, by Stephen P. Bellinger, Joel W. Townsend, and Ben H. Townsend, doing business as Prairieland Broadcasters, licensee of Radio Station WDZ(AM), Decatur, Ill. The petitioners propose the assignment of a second FM channel at Decatur, to be accomplished by changing the FM assignment at Rantoul, Ill.

b. *RM-1693.* Petition, filed October 1, 1970, and amendment thereto filed November 30, 1970, by William H. Colclough and Edward La France, doing business as Colclough and La France. These petitioners propose the assignment of a second FM channel at Santa Rosa, Calif., which would require no changes in existing assignments.

c. *RM-1696.* Petition, filed April 2, 1970, and amendment thereto filed September 10, 1970, by KND Corporation, licensee of Radio Station WKND(AM), Windsor, Conn. Petitioner proposes the assignment of a first FM channel at Enfield, Conn., which would require changes in occupied FM assignments at Greenfield and Northampton, Mass.

d. *RM-1697.* Petition, filed October 2, 1970, by Peoples Broadcasting Co., licensee of Station WPBC-FM, operating on Channel 267, Richfield, Minn. Petitioner proposes changes in unoccupied FM assignments at Duluth and Cloquet, Minn., Ironwood, Mich., and Ladysmith, Wis., to permit its Richfield FM station to operate with improved facilities from a new site.

2. The proposals of the above petitioners, discussed at greater length hereafter, are advanced herein for comments, some with a little modification. We have reservations about some of these proposals, as indicated below, and this action inviting comments on them does not indicate a present Commission view, even tentatively, that any or all of them should be adopted. In discussing these proposals individually below, all population figures given are from the 1970 U.S. Census, except as otherwise noted.

3. *Decatur (Rantoul), Ill. (RM-1686).* Prairieland Broadcasters (Prairieland) proposes that Channel 236 be assigned to Decatur to make a second FM assignment available in that community for which it could apply. Channel 236 could be assigned to Decatur in conformity with separation requirements and without requiring any changes in existing assignment in other communities if used at a transmitter site at a distance of about 14 miles southwest of Decatur. However, by replacing Channel 237A, now assigned to Rantoul, Ill., with another channel, the site for a Channel 236 Decatur station could be located much closer to Decatur.[1] Prairieland, therefore, in addition to proposing the assignment of Channel 236 to Decatur, proposes that Channel 265A be substituted for the present Rantoul assignment, as follows:

City	Channel No.	
	Present	Proposed
Decatur, Ill.	275	236, 275
Rantoul, Ill.	237A	265A

4. Comments directed to the Prairieland proposal were filed by Arthur Weichelt, d/b as Rantoul Broadcasting Co., an applicant for Channel 237A at Rantoul (BPH-7166). He states that he has no objection to an additional FM assignment at Decatur but would prefer, for practical operation and other reasons, to have Channel 224A instead of Channel 265A substituted for the existing Rantoul assignment, and he requests that the Prairieland proposal be so modified if adopted. In reply, Prairieland states that it is agreeable to this change in its proposal since Channel 224A at Rantoul appears to meet all assignment requirements and would not affect other assignments.[2]

5. Decatur (89,468 population), the seat of Macon County (123,926 population), has four operating broadcast stations, consisting of one Class B FM station, two standard broadcast stations, one of which is a daytime-only station (WDZ), licensed to Prairieland, and a television station. Both the FM station (WSOY-FM) and the unlimited-time AM station (WSOY) have the same licensee, and Prairieland urges that the proposed Decatur assignment would provide a second and independent aural voice to the community and area during nighttime hours. It also avers that adding a second FM assignment at Decatur, a community of almost 90,000 persons, would be consistent with the Commission's policy of assigning two to four FM channels to communities of 50,000 to 100,000 population.

6. The preclusion study indicates that the assignment of Channel 236 at Decatur would preclude the use of Channels 236 and 237A in a limited area where the only communities of any size which could make use of these channels are Taylorville (10,425 population) and Virden (3,507 population), Illinois. Taylorville has a Class A channel assignment and an FM station in operation. Virden is without an FM channel assignment or an aural broadcast facility. Considering the size of Decatur, a second FM assignment there would appear warranted in the public interest. If Channel 236 is not assigned to Decatur, however, Channel 237A may be assigned to Virden[3] and should a need and demand for a station there be demonstrated, conflicting public interest considerations would have to be resolved. However, in Docket No. 19161, RM-1566, Paris, Ill., one of the alternative proposals under consideration is the assignment of Channel 253 to Decatur. Should that channel be assigned to Decatur, the Channel 236 Decatur proposal here may become moot. At this stage, however, we believe we should consider here this additional proposed alternative to assignment of FM channels in this general area of Illinois.

7. *Santa Rosa, Calif. (RM-1693).* Petitioners Colclough and La France seek the assignment of Channel 257A to Santa Rosa in order to make a second FM assignment available there for which they can apply.[4] Channel 257A may be assigned to Santa Rosa in conformity with technical requirements of the Commission's rules and without affecting any presently assigned channel. Santa Rosa (48,464 population), the seat of Sonoma County (199,360 population), is located approximately 55 miles north of San Francisco, Calif. Operating broadcast stations in Santa Rosa include a Class A FM station and four standard broadcast stations, two of which operate daytime-only. Petitioners are principals of KVRE, Inc., licensee of one of the daytime-only AM stations (KVRE). The only other aural broadcast facility in Sonoma County is an unlimited-time standard broadcast station at Petaluma.

8. In support of their request, the petitioners aver that Santa Rosa is the largest city in Sonoma County; is the major economic, medical service and cultural center for several counties (Sonoma, Lake, Mendocino and part of Napa); has recreational assets which include the Russian River resort area and ocean beaches; and has influence extending to the east along the Rincon Valley toward the Sonoma and Napa Valley wine country. They allege that Santa Rosa is unique in its make up and needs, completely apart from the San Francisco Bay Area concentration; and that all pertinent indices point to continued

[1] The proposed assignment substitution at Rantoul would permit use of the proposed Channel 236 Decatur assignment at a transmitter site as close as three miles south from the center of Decatur. The three-mile restriction is required because of existing assignments at Pekin, Ill. (Channel 237A) and Champaign, Ill. (Channel 233).

[2] The proposed Channel 224A Rantoul assignment would require use of the channel at a transmitter site at a distance of at least two miles west of Rantoul because of the Channel 224A assignment at Lafayette, Ind.

[3] A Virden Channel 237A assignment would require no change in the present Rantoul 237A assignment.

[4] While these petitioners originally requested that Channel 249A be assigned to Santa Rosa, in the amendment filed to their petition they stated that they were amending their petition to request Channel 257A instead, being of the view that it is a better choice from engineering and local reception standpoints.

growth and prosperity for this area. With but one FM assignment and station in the whole of Sonoma County at present, they assert that it is underserved and under-provided with FM facilities almost to the disaster point.

9. The proposed Santa Rosa Channel 257A assignment would preclude future assignments only on Channel 257A in the area around and north of Santa Rosa. Other than Santa Rosa, there are four communities where this Class A channel could be assigned, the largest of which is Healdsburg, which has a 5,405 population. However, there are three other unassigned Class A channels (249A, 269A and 285A) which could be assigned to any one of these communities if needed. There is therefore no preclusionary reason for denying the requested assignment of Channel 257A to Santa Rosa. Also, considering the present size of Santa Rosa and that it has had over a 50 percent gain in population since 1960 and appears to have the potential for continued growth, it appears that the one occupied Class A FM channel assigned is insufficient to meet its present or future needs for FM service. For these reasons, we think consideration of the proposal of these petitioners for assignment of a second Class A FM channel to Santa Rosa is warranted.

10. *Enfield, Conn. (Greenfield, Mass., Northampton, Mass.) (RM–1697).* KND Corp. (KND), seeks assignment of Channel 252A to Enfield, Conn., for a first assignment by changing occupied assignments at Greenfield, and Northampton, Mass.,[5] as follows:

City	Channel No.	
	Present	Proposed
Enfield, Conn.		252A [1]
Greenfield, Mass.	252A	257A
Northampton, Mass.	257A	265A

[1] The transmitter for a station on the proposed Enfield Channel 252A assignment would be required to be located in the northeast corner of the township because of the Channel 252A station (WLAD-FM) at Danbury, Conn.

11. This KND proposal would require Station WHAI–FM at Greenfield and Station WHMP–TV at Northampton to change from operation on the present FM assignments in those communities to the replacement channels proposed. The Northampton licensee, Pioneer Valley Broadcasting Co., states in comments filed with respect to the KND proposal that it does not object to the change in its channel provided it is reimbursed by the prevailing Enfield applicant for all reasonable and allowable expenses necessitated by the changeover from Channel 257A to Channel 265A. No comments on the proposal were filed by Haigis Broadcasting Corp., the licensee of the Greenfield FM station.

12. Enfield, an urban town of 44,682 population, is located in Hartford County (808,246 population), in the north central part of Connecticut abutting the Massachusetts State boundary. It is part of the Hartford SMSA (657,104 population), and in 1960, it was part of the Springfield-Chicopee-Holyoke (Mass.-Conn.) Urbanized Area. Enfield is without a local aural facility but is served by the five Class B FM stations at Hartford (155,868 population), the principal city of the Hartford SMSA. Two of the Hartford stations serve all of Enfield Township; the other three provide partial service. Enfield is also served by the three Class B FM stations at Springfield, Mass.

13. In support of its petition, KND states that Enfield is the largest community in the Springfield-Chicopee-Holyoke urbanized area that has no local broadcast facility and that it needs an FM station because, being located in the southernmost part of this urbanized area, and in Connecticut rather than Massachusetts, it is relatively disconnected from it, geographically and politically.

14. To permit the assignment of Channel 252A to Enfield, the channel assignments now occupied by the Greenfield and Northampton stations would have to be changed. The replacement channel proposed for Northampton—Channel 265A—would restrict use of the Channel 265A assignment at Albany, N.Y. However, since the applicant for the Albany Channel 265A assignment[6] proposes use of a transmitter site which would comply with the mileage separation requirements if Channel 265A is substituted for Channel 257A at Northampton, this does not appear to raise a problem.

15. The preclusion study indicates that there are areas with communities where the three channels involved here could be utilized for FM stations in the future. These communities, however, are located close to larger communities with AM stations and FM assignments, and some of them have one or more AM stations. None of these communities are as large as Enfield in size. Considering these factors, and that Enfield is located between Hartford and Springfield and does not have a local aural broadcast facility, it appears that it would be in the public interest to consider KND's proposal for providing Enfield with a first assignment.

16. *Duluth and Cloquet, Minn., Ironwood, Mich., and Ladysmith, Wis. (RM–1697).* Peoples Broadcasting (Peoples), which now operates its Channel 267 Richfield, Minn., station (WPBC–FM) from a transmitter site south of Richfield, desires to expand its coverage area by moving the location of its transmitter and operating with improved facilities from a location north of its present transmitter site. The proposed transmitter site, as well as its present site, are less than the minimum required separation of 150 miles from the Channel 268 Duluth assignment.[7] To permit the proposed move in accordance with spacing requirements, Peoples proposes changes in assignments for the following communities. (The affecetd channels are italicized.)

City	Channel No.	
	Present	Proposed
Duluth, Minn.	235, 255, 268, 273, 277, 286	235, 255, 268, 273, 277, 286
Cloquet, Minn.	228A	265A
Ironwood, Mich.	290, 295	290, 268
Ladysmith, Wis.	226	279

17. The substitute channels proposed for these communities are unoccupied, and there are no applications on file for them. While no objections to Peoples' proposal were received, we think it unnecessary to consider the proposed change in the Channel 295 Ironwood assignment since the substitute channels proposed for Duluth, Cloquet, and Ladysmith present no conflict with respect to the present Ironwood Channel 295 assignment. It appears that the requested changes would serve a public interest purpose, and, incidentally, eliminate the present short spacing between the Richfield station and the Channel 268 Duluth assignment. We therefore propose to consider Peoples' proposal for changing assignments at Duluth, Cloquet, and Ladysmith.

18. *Showings required.* Comments are invited upon the proposals discussed above. Proponents are expected to file comments, even if nothing more than to resubmit or refer to the petitions, and to answer whatever questions have been raised. Among other things, petitioners are expected to state their intention to apply for any channel requested, if assigned, and, if authorized, to construct a station thereon promptly. Failure to make these showings may result in denial of the petitions.

19. *Cutoff procedure.* As in other recent FM rule making proceedings, the following procedures will govern:

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered, if advanced in reply comments.

(b) With respect to petitions for rule making which conflict with any of the proposals in this Notice, they will be considered as comments in the proceedings, and Public Notice to this effect will be given, as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision herein.

20. In view of the foregoing, and pursuant to authority found in Sections 4(i), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as concerns the communities below. (Where indicated by footnote indicators below, the assignment must be used at a short distance outside of the specified city.)

[5] The change proposed in the Northampton FM assignment was incorporated in petitioner's proposal by an amendment filed to its petition on September 9, 1970.

[6] Application of Metroland Broadcasting Corp., filed December 17, 1970, BPH 7341.

[7] The short spacing involved is about 21.20 miles from the proposed WPBC–FM transmitter site and about 2.30 miles from the present WPBC–FM site.

City	Channel No. Present	Proposed
Decatur, Ill.	275	236, [1] 275
Rantoul, Ill.	237A	[1] 224A
Virden, Ill.		237A
Santa Rosa, Calif.	261A	257A, 261A
Enfield, Conn.		[1] 282A
Greenfield, Mass.	252A	257A
Northampton, Mass.	257A	265A
Duluth, Minn.	235, 255, 268, 273, 277, 286	225, 235, 255, 273, 277, 286
Cloquet, Minn.	228A	265A
Ladysmith, Wis.	225	279

[1] Proposed assignments listed must be used approximately where indicated: Enfield, Conn., Channel 282A, the northeast corner of the township; Decatur, Ill., Channel 236, 3 miles south of Decatur, and Rantoul, Ill., Channel 224A, 2 miles west of Rantoul.

21. It is further proposed, if the assignments above which involve changes in the channels of existing stations are concluded to be in the public interest and are adopted, to order, pursuant to section 316 of the Communications Act of 1934, as amended, the following licensees to show cause why the licenses of their stations should not be modified to specify the new channels instead of their present channels, as indicated below (subject to reimbursement by parties which become the permittees on the new assignments thus made possible, of the reasonable costs of changing channel):

Station and location	Licensee	Channel Present	Proposed
WHAI, Greenfield, Mass.	Haigis Broadcasting Corp.	252A	257A
WHMP-FM, Northampton, Mass.	Pioneer Valley Broadcasting Corp.	257A	265A

22. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules, interested persons may file comments on or before October 22, 1971, and reply comments on or before November 2, 1971. All submissions by parties to this proceeding or persons acting in behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings.

23. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 14 copies of all comments, replies, pleadings, briefs, and other documents shall be furnished the Commission. These documents will be available for public inspection during regular business hours in the Commission's Broadcast and Reference Room at its headquarters, 1919 M Street NW, Washington, DC.

Adopted: September 8, 1971.

Released: September 13, 1971.

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

[FR Doc.71-13805 Filed 9-17-71;8:52 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

CHARITABLE REMAINDER TRUSTS

Notice of Proposed Rule Making

On August 5, 1970, notice of proposed rule making was published in the FEDERAL REGISTER in regard to regulations under section 664 of the Internal Revenue Code of 1954, relating to charitable remainder trusts, as added by section 201(e) of the Tax Reform Act of 1969 (35 F.R. 12467). Notice is hereby given that so much of the proposed regulations as is contained in §§ 1.664–1, 1.664–2, 1.664–3, and paragraphs (a), (b)(1), (b)(2), (b)(3), and (b)(4) of § 1.664–4, as set forth in paragraph 1 of the appendix to the notice of proposed rule making, is hereby withdrawn.

Further notice is hereby given that, in lieu of the proposed rules which are so withdrawn, the regulations set forth in tentative form in the attached appendix are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by October 18, 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 18, 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 664 of the Internal Revenue Code of 1954 (83 Stat. 562; 26 U.S.C. 664) and section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Pending a subsequent notice of proposed rule making or adoption of final regulations, taxpayers may rely on the provisions of this notice of proposed rule making. Thus, a trust executed on or before the 30th day following the date of filing of a subsequent notice of proposed rule making or final regulations under section 664 of the Code which complies with the provisions of this notice of proposed rule making and which is irrevocable on such date or, if revocable, the grantor of which is at all times after such date under a mental disability to change the terms of the trust, need not be amended to conform to such subsequent notice of proposed rule making or final regulations. Similarly, a will executed on or before the 30th day following the date of filing of a subsequent notice of proposed rule making or final regulations under section 664 of the Code which establishes a trust which complies with the provisions of this notice of proposed rule making need not be amended to conform to such subsequent notice of proposed rule making or final regulations if:

(a) The testator dies within 3 years after the date of such filing without having republished the will after the 30th day following the date of such filing by codicil or otherwise,

(b) The testator at no time after the 30th day following the date of such filing had the right to change the provisions of the will which pertain to the trust, or

(c) The will is not republished by codicil or otherwise within a period beginning 31 days after the date of such filing and ending 3 years after the date of such filing and at all times after such period the testator is under a mental disability to republish the will by codicil or otherwise.

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

On August 5, 1970, notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 12467) regarding the amendment of the Income Tax Regulations (26 CFR Part 1) to conform such regulations to section 664 of the Internal Revenue Code of 1954, relating to charitable remainder trusts, as added by section 201(e) of the Tax Reform Act of 1969. So much of the proposed regulations as is contained in §§ 1.664–1, 1.664–2, 1.664–3 and paragraphs (a), (b)(1), (b)(2), (b)(3), and (b)(4) of 1.664–4, as set forth in paragraph 1 of the appendix to the notice of proposed rule making, is hereby withdrawn. The appendix to the above-mentioned notice of proposed rule making is amended as follows:

PARAGRAPH 1. The following rules are hereby prescribed in lieu of the rules which are so withdrawn:

§ 1.664–1 Charitable remainder trusts.

(a) *In general.* (1) (i) Generally, a charitable remainder trust is a trust which provides for a specified distribution, at least annually, to one or more beneficiaries, at least one of which is not a charity, for life or for a term of years, with an irrevocable remainder interest to be held for the benefit of, or paid over to, charity. The specified distribution to be paid at least annually must be a sum certain which is not less than 5 percent of the initial net fair market value of all property placed in trust (in the case of a charitable remainder annuity trust) or a fixed percentage which is not less than 5 percent

of the net fair market value of the trust assets, valued annually (in the case of a charitable remainder unitrust). A trust created after July 31, 1969, which is a charitable remainder trust is exempt from all of the taxes imposed by subtitle A of the Code for any taxable year of the trust except a taxable year in which it has unrelated business taxable income.

(ii) As used in this section and §§ 1.664–2, 1.664–3, and 1.664–4: (*a*) The term "charitable remainder trust" means a trust with respect to which a deduction is allowable under section 170, 2055, 2106, or 2522 and which meets the description of a charitable remainder annuity trust (as described in § 1.664–2) or a charitable remainder unitrust (as described in § 1.664–3); (*b*) the term "annuity amount" means the amount described in paragraph (a)(1) of this section or § 1.664–2 which is payable, at least annually, to the beneficiary of a charitable remainder annuity trust; (*c*) the term "unitrust amount" means the amount described in paragraph (a)(1) of § 1.664–3 which is payable, at least annually, to the beneficiary of a charitable remainder unitrust; (*d*) the term "recipient" means the beneficiary who receives the possession or beneficial enjoyment of the annuity amount or unitrust amount; (*e*) the term "governing instrument" has the same meaning as in section 508(e) and the regulations thereunder; and (*f*) the term "trust" means any organization which is classified for tax purposes as a trust under the rules provided in §§ 301.7701–2, 301.7701–3, and 301.7701–4 of this chapter (Regulations on Procedure and Administration).

(iii) This section provides definitions, general rules governing the creation and administration of charitable remainder trusts, and rules governing the taxation of the trust and its beneficiaries. Section 1.664–2 provides rules relating solely to charitable remainder annuity trusts. Section 1.664–3 provides rules relating solely to charitable remainder unitrusts. Section 1.664–4 provides rules governing the calculation of the fair market value of the remainder interest in charitable remainder unitrusts. If the trust has unrelated business taxable income, see paragraph (c) of this section. For the taxability of distributions to recipients, see paragraph (d) of this section. For trusts with short taxable years, see paragraph (f) of this section. For the time limitations for amendment of governing instruments, see paragraph (g) of this section. For rules relating to the filing of returns for charitable remainder trusts, see paragraph (a)(6) of § 1.6012–3 and section 6034 and the regulations thereunder.

(2) A trust is a charitable remainder trust only if it is either a charitable remainder annuity trust in every respect or a charitable remainder unitrust in every respect. For example, a trust which provides for the payment each year to a noncharitable beneficiary of the greater of a sum certain or a fixed percentage of the annual value of the trust assets is not a charitable remainder trust inasmuch as the trust is neither a charitable remainder annuity trust (for the reason that the payment for the year may be a fixed percentage of the annual value of the trust assets which is not a "sum certain") nor a charitable remainder unitrust (for the reason that the payment for the year may be a sum certain which is not a "fixed percentage" of the annual value of the trust assets).

(3) In order for a trust to be a charitable remainder trust, it must meet the definition of and function exclusively as a charitable remainder trust from the creation of the trust. Solely for the purposes of section 664 and the regulations thereunder, the trust will be deemed to be created at the earliest time that neither the grantor nor any other person is treated as the owner of the entire trust under subpart E of part 1 of subchapter J of chapter 1 of subtitle A of the Code (relating to grantors and others treated as substantial owners), but in no event prior to the time property is first transferred to the trust. For purposes of the preceding sentence, neither the grantor nor his spouse shall be treated as the owner of the trust under such subpart E merely because the grantor or his spouse is named a recipient. See examples 1 through 3 of paragraph (a)(5) of this section for illustrations of the foregoing rule.

(4) (i) Notwithstanding the prior subparagraph and §§ 1.664–2 and 1.664–3, for purposes of sections 2055 and 2106 a charitable remainder trust shall be deemed created at the date of death of the decendent (even though the trust is not funded until the end of a reasonable period of administration or settlement) if the obligation to pay the annuity or unitrust amount with respect to the property passing in trust at the death of the decedent begins as of the date of death of the decedent, even though the requirement to pay such amount is deferred in accordance with the rules provided in this subparagraph. If permitted by applicable local law or authorized by the provisions of the governing instrument, the requirement to pay such amount may be deferred until the end of the taxable year of the trust in which occurs the earlier of the end of a reasonable period of administration or settlement or the complete funding of the trust. Within a reasonable period of such time, the trust must pay (in the case of an underpayment) or must receive from the recipient (in the case of an overpayment) the difference between the total of any annuity or unitrust amounts actually paid and the total of such amounts payable. The amount which is payable shall be retroactively determined by using the taxable year, valuation method, and valuation dates which are ultimately adopted by the charitable remainder trust. See paragraph (d)(4) of this section for rules relating to the year of inclusion in the case of an underpayment to a recipient and the allowance of a deduction in the case of an overpayment to a recipient.

(ii) In retroactively determining the amount payable, the governing instrument of a charitable remainder unitrust may provide that the total of the unitrust amounts with respect to the property passing in trust at the death of the decedent for the period between the date of death and the end of the taxable year of the trust in which occurs the earlier of the end of a reasonable period of administration or settlement or the complete funding of the trust shall be computed by multiplying (*a*) the sum of (*1*) the value on the last day in such taxable year of the property held in trust which is attributable to property passing in trust at the death of the decedent, (*2*) any distributions in respect of unitrust amounts made by the trust or estate before such day plus, (*3*) interest on such distributions computed at 6 percent a year, compounded annually, from the date of distribution to such day by (*b*) a factor equal to 1.0 less the factor under the appropriate payout rates in column 2 of Table D in § 1.664–4(b)(5) opposite the number of years in column 1 between the date of death and the end of such taxable year. If the number of years between the date of death and the end of such taxable year is between periods for which factors are provided in Table D, a linear interpolation must be made.

(iii) The taxation of distributions to a charitable remainder trust, or to a recipient in respect of annuity trust or unitrust amounts, paid, credited, or required to be distributed by an estate, or by a trust which is not a charitable remainder trust, shall be governed by the rules of subchapter J of chapter 1 of subtitle A of the Code other than section 664. In the case of a charitable remainder trust which is partially or fully funded during the period of administration of an estate or settlement of a trust (which is not a charitable remainder trust), the taxation of any amounts paid, credited, or required to be distributed by the charitable remainder trust shall be governed by the rules of section 664.

(iv) The principles of § 1.641(b)–3 are applicable to this paragraph for purposes of determining what is a reasonable period of administration or settlement.

(5) The application of the rules in subparagraphs (3) and (4) of this paragraph may be illustrated by the following examples:

Example (1). On September 19, 1971, H transfers property to a trust over which he retains an inter vivos power of revocation. The trust is to pay W 5 percent of the value of the trust assets, valued annually, for her life, remainder to charity. Since H is treated as the owner of the entire trust under subpart E, the trust is not deemed to be created in 1971. Consequently, the trust is not a charitable remainder trust in 1971. On May 26, 1975, H predeceases W at which time the trust becomes irrevocable. The trust is deemed created on May 26, 1975, since that is the earliest date on which H is not treated as the owner of the entire trust under subpart E. Since the trust is no longer subject to a power of revocation after H's death, the trust is a charitable remainder trust if it otherwise meets the definition of a charitable remainder trust.

Example (2). The facts are the same as in example (1), except that H retains the inter vivos power to revoke only one-half of the trust. The trust is deemed created on

September 19, 1971, since on that date the grantor is not treated as the owner of the entire trust under subpart E. Consequently, a charitable deduction is not allowable either at the creation of the trust or at H's death since the trust does not meet the definition of a charitable remainder trust from the date of its creation because the trust is subject to a partial power to revoke on such date.

Example (3). The facts are the same as in example (1), except that the residue of H's estate is to be paid to the trust and the trust is required to pay H's debts. The trust is not a charitable remainder trust at H's death because it does not function exclusively as a charitable remainder trust from the date of its creation which, in this case, is the date it becomes irrevocable.

Example (4). In 1971, H transfers property to Trust A over which he retains an inter vivos power of revocation. Trust A, which is not a charitable remainder trust, is to provide income or corpus to W until the death of H. Upon H's death the trust is required by its governing instrument to pay the debts and administration expenses of H's estate, and then to terminate and distribute all of the remaining assets to a separate Trust B (whether or not provided under the same instrument) which meets the definition of a charitable remainder annuity trust. Trust B will be charitable remainder trust from the date of its funding since it will function exclusively as a charitable remainder trust from its creation. For purposes of section 2055, Trust B will be deemed created at H's death if the obligation to pay the annuity amount begins on the date of H's death. For purposes of section 664, Trust B obtains the status of a charitable remainder trust as soon as it is partially or completely funded. Consequently, unless Trust B has unrelated business taxable income, any income of the trust is exempt from all taxes imposed by subtitle A of the Code, and any distributions by the trust, even before it is completely funded, are governed by the rules of section 664. Any distributions made by Trust A during a reasonable period of settlement following H's death, including distributions to the recipient, W, in respect of annuity trust amounts, are governed by the rules of subchapter J of chapter 1 of subtitle A of the Code other than section 664.

Example (5). In 1973, H dies leaving the net residue of his estate (after payment by the estate of all debts and administration expenses) to a trust under his will which meets the definition of a charitable remainder unitrust. For purposes of section 2055, the trust is deemed created at H's death if the requirement to pay the unitrust amounts begins on H's death and is a charitable remainder trust even though the estate is obligated to pay H's debts and administration expenses and the trust is not completely funded until the end of a reasonable period of administration of the estate. For purposes of section 664, the trust obtains the status of a charitable remainder trust as soon as it is partially or completely funded. Consequently, unless the trust has unrelated business taxable income, any income of the trust is exempt from all taxes imposed by subtitle A of the Code, and any distributions by the trust, even before it is completely funded, are governed by the rules of section 664. Any distributions made by H's estate, including distributions to a recipient in respect of unitrust amounts, are governed by the rules of subchapter J of chapter 1 of subtitle A of the Code other than section 664.

Example (6). On January 1, 1974, H dies leaving the residue of his estate to a charitable remainder unitrust under his will. The governing instrument provides that, beginning at H's death, the trustee is to make annual payments to W, on December 31 of each year, of 5 percent of the net fair market value of the trust assets, valued as of December 31 of each year, for W's life and to pay the remainder to charity at the death of W. The governing instrument also provides that the actual payment of the unitrust amount need not be made until the end of the taxable year of the trust in which occurs the earlier of the end of the administration of the estate or the complete funding of the trust. The governing instrument also provides that the amount payable with respect to the period between the date of death and the end of such taxable year shall be computed under the special method provided in subparagraph (4)(ii) of this paragraph. The governing instrument provides that, within a reasonable period after the end of the taxable year of the trust in which occurs the earlier of the end of the administration of the estate or the complete funding of the trust, the trustee shall pay (in the case of an underpayment) or shall receive from the recipient (in the case of an overpayment) the difference between the unitrust amounts paid and the total of such amounts payable for such period. The trust is completely funded on September 20, 1976. No amounts were paid before June 30, 1977. The trust adopts a fiscal year of July 1 to June 30. The net fair market value of the trust assets on June 30, 1977, is $100,000. Since no amounts were paid prior to the end of the taxable year in which the trust was completely funded, the amount payable to the end of such taxable year is equal to the net fair market value of the trust assets on the last day of such taxable year (June 30, 1977) times a factor equal to 1.0 minus the factor in Table D corresponding to the number of years in the period between the date of death and the end of such taxable year. The adjusted payout rate (determined under § 1.664-4(b)(2)) is 5 percent. Since the last day of the taxable year in which the trust is completely funded is June 30, 1977, there are 3 181/365 years in such period. Since there is no factor given in Table D for such a period, a linear interpolation must be made:

1.0 minus .814506 (factor at 5 percent for 4 years)	.185494
1.0 minus .857375 (factor at 5 percent for 3 years)	.142625
Difference	.042869

$$\frac{181}{365} = \frac{X}{.042869}$$

$$X = .021258$$

1.0 minus .857375 (factor at 5 percent for 3 years)	.142625
Plus: X	.021258
Interpolated factor	.163883

Thus, the amount payable for the period from January 1, 1974, to June 30, 1977, is $16,388.30 ($100,000 × .163883). Thereafter, the trust assets must be valued on December 31 of each year and 5 percent of such value paid annually to W for her life.

(6) A trust is not a charitable remainder trust if its governing instrument contains a provision which restricts the trustee from investing the trust assets in a manner which could result in the annual realization of a reasonable amount of income or gain from the sale or disposition of trust assets. In the case of transactions with, or for the benefit of, a disqualified person, see section 4941(d) and the regulations thereunder for rules relating to the definition of self-dealing.

(b) *Application of certain foundation rules to charitable remainder trusts.* See section 4947(a)(2) and section 4947(b)(3)(B) and the regulations thereunder for the application to charitable remainder trusts of certain provisions relating to private foundations. See section 508(e) for rules relating to required provisions in governing instruments prohibiting certain activities specified in section 4947(a)(2).

(c) *Taxation of nonexempt charitable remainder trusts.* If the charitable remainder trust has any unrelated business taxable income (within the meaning of section 512 and the regulations thereunder, determined as if part III of subchapter F of chapter 1 of subtitle A of the Code applied to such trust) for any taxable year, the trust is subject to all of the taxes imposed by subtitle A of the Code for such taxable year. For taxable years beginning after December 31, 1969, unrelated business taxable income includes debt-financed income. The taxes imposed by subtitle A of the Code upon a nonexempt charitable remainder trust shall be computed under the rules prescribed by subparts A and C of part 1 of subchapter J of chapter 1 of subtitle A of the Code for trusts which may accumulate income or which distribute corpus. The provisions of subpart E of part 1 of such subchapter J are not applicable with respect to a nonexempt charitable remainder trust. The application of the above rules may be illustrated by the following example:

Example. In 1975, a charitable remainder trust which has a calendar year as its taxable year has $1,000 of ordinary income, including $100 of unrelated business taxable income, and no deductions other than under sections 642(b) and 661(a). The trust is required to pay out $700 for the year 1975 to a noncharitable recipient. Since the trust has some unrelated business taxable income in 1975, it is not exempt for such year. Consequently, the trust is taxable on all of its income as a complex trust. Under section 661(a) of the Code, the trust is allowed a deduction of $700. Under section 642(b) of the Code, the trust is allowed a deduction of $100. Consequently, the taxable income of the trust for the year 1975 is $200 ($1,000−$700−$100).

(d) *Taxation of annual distributions to recipients*—(1) *Character of distributions.* (i) Annuity and unitrust amounts shall be treated as having the following characteristics in the hands of the recipients (whether or not the trust is exempt) without credit for any taxes which are imposed by subtitle A of the Code on the trust:

(*a*) First, as ordinary income to the extent of the sum of the trust's ordinary income for the taxable year of the trust and its undistributed ordinary income for prior years. An ordinary loss for the current year may be used to reduce undistributed ordinary income for prior years and any excess may be carried forward indefinitely to reduce ordinary income for future years. For purposes of this section, the amount of current and prior years' income shall be computed without regard to the deduction for net operating losses provided by sections 172 or 642(d).

(*b*) Second, as capital gain to the extent of the trust's undistributed capital

gains. Undistributed capital gains of the trust are determined on a cumulative net basis under the rules of this subdivision without regard to the provisions of section 1212. If, in any taxable year of the trust, the trust has both undistributed short-term capital gain and undistributed long-term capital gain, then the short-term capital gain shall be deemed distributed prior to any long-term capital gain. If the trust has for any taxable year capital losses in excess of capital gains, any excess of the net short-term capital loss over the net long-term capital gain for such year shall be a short-term capital loss in the succeeding taxable year and any excess of the net long-term capital loss over the net short-term capital gain for such year shall be a long-term capital loss in the succeeding taxable year. If the trust has for any taxable year capital gains in excess of capital losses, any excess of the net short-term capital gain over the net long-term capital loss for such year shall be, to the extent not deemed distributed, a short-term capital gain in the succeeding taxable year and any excess of the net long-term capital gain over the net short-term capital loss for such year shall be, to the extent not deemed distributed, a long-term capital gain in the succeeding taxable year. The application of the rules in this subdivision may be illustrated by the following example:

Example. (*1*) The X Trust is a charitable remainder trust created on January 1, 1975, and has the calendar year as its taxable year. During the years indicated, it has the following capital transactions:

1975:	
Long-term capital loss	$10
Short-term capital gain	5
1976:	
Short-term capital gain	20
Short-term capital loss	5
1977:	
Long-term capital gain	15

Payments for the taxable year were not in excess of current and accumulated ordinary income in 1975 and 1976. In 1977, they exceeded current and accumulated ordinary income by $5.

(*2*) The treatment of the 1975 and 1976 transactions is as follows:

1975:	
Long-term capital loss recognized	$(10)
Short-term capital gain recognized	5
Net long-term capital loss carried forward to 1976	(5)
1976:	
Short-term capital gain recognized	20
Short-term capital loss recognized	(5)
Long-term capital loss carried forward from 1975	(5)
Net short-term capital gain carried forward to 1977	10
1977:	
Long-term capital gain recognized	15
Net short-term capital gain carried forward from 1976	10

(*3*) In 1977, the trust has long-term capital gain of $15 and short-term capital gain of $10. If the trust has both short-term capital gain and long-term capital gain for the same taxable year, the short-term capital gain is deemed distributed prior to the long-term capital gain. Therefore, the distribution of $5 in 1977 is deemed to be short-term capital gain. The undistributed net short-term capital gain of $5 is a short-term capital gain carried forward to 1978. The undistributed net long-term capital gain of $15 is a long-term capital gain carried forward to 1978.

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

(*d*) Finally, as a distribution of trust corpus. For purposes of this section, the term "corpus" means the net fair market value of the trust assets less the total undistributed income (but not loss) in each of the above categories.

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

(*2*) *Allocation of deductions.* Items of deduction of the trust for a taxable year of the trust which are deductible in determining taxable income (other than the deductions permitted by sections 642 (b), 642(c), 661, and 1202) which are directly attributable to one or more classes of items within a category of income or to corpus shall be allocated to such classes of items or to corpus. All other allowable deductions for such taxable year which are not directly attributable to one or more classes of items within a category of income or to corpus (other than the deductions permitted by sections 642(b), 642(c), 661, and 1202) shall be allocated among the classes of items (excluding classes of items with net loses) on the basis of the gross income of such classes for such taxable year reduced by the deductions allocated thereto under the first sentence of this subparagraph, but in no event shall the amount of expenses allocated to any class of items exceed such income of such class for the taxable year. Items of deduction which are not allocable under the above two sentences (other than the deductions permitted by sections 642(b), 642(c), 661, and 1202) may be allocated in any manner. All taxes imposed by subtitle A of the Code for which the trust is liable because it has unrelated business taxable income and all taxes imposed by chapter 42 of the Code shall be allocated to corpus. Any expense which is not deductible in determining taxable income and which is not allocable to pay class of items in category (iii) shall be allocated to corpus. The deductions allowable to a trust under sections 642(b), 642(c), 661, and 1202 are not allowed in determining the amount or character of any class of items within a category of income or to corpus in the categories described in subparagraph (1) of this paragraph.

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

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

(*4*) *Year of inclusion.* (i) To the extent required by this paragraph, the recipient shall include in his gross income for the taxable year the annuity or unitrust amount which is required to be distributed to him for such year, whether or not distributed. Thus, to the extent required by this paragraph, the annuity or unitrust amount is includible in the recipient's gross income for the taxable year in which the annuity or unitrust amount is required to be distributed even though, as a matter of practical necessity or otherwise, the annuity or unitrust amount is not distributed until after the close of the taxable year of the trust. If a recipient has a different taxable year (as defined in section 441 or 442) from the taxable year of the trust, the amount he is required to include in gross income to the extent required by this paragraph shall be included in his taxable year in which or with which ends the taxable year of the trust in which such amount is required to be distributed.

(ii) Notwithstanding subdivision (i) of this subparagraph, any payments which are made or required to be distributed by a charitable remainder trust pursuant to paragraph (a)(4) of this section, under paragraph (g)(3) of this section because of an amendment to the governing instrument, or under paragraphs (a)(1) of §§ 1.664–2 and 1.664–3 because of an incorrect valuation, shall, to the extent required by this paragraph, be included in the gross income of the recipient in his taxable year in which or with which ends the taxable year of the trust in which the amount is paid, credited, or required to be distributed. For rules relating to required adjustments of underpayments and overpayments of the annuity or unitrust amounts in respect of payments made prior to the amendment of a governing instrument, see paragraph (g)(3) of this section. A deduction is

allowable to a recipient for any amounts repaid to the trust because of an overpayment during the reasonable period of administration or settlement or until the trust is fully funded, because of an amendment, or because of an incorrect valuation, to the extent such amounts were included in his gross income. See section 1341 and the regulations thereunder for rules relating to the computation of tax where a taxpayer restores substantial amounts held under a claim of right.

(iii) If the taxable year of the trust does not end with or within the last taxable year of the recipient because of the recipient's death, the extent to which the annuity or unitrust amount required to be distributed to him is included in the gross income of the recipient for his last taxable year, or in the gross income of his estate, is determined by making the computations required under this paragraph for the taxable year of the trust in which his last taxable year ends. (The last sentence of subdivision (i) of this subparagraph does not apply to such amounts.) The gross income for the last taxable year of a recipient on the cash basis includes (to the extent required by this paragraph) only amounts actually distributed to the recipient before his death. Amounts required to be distributed, but in fact distributed to his estate, are included (to the extent required by this paragraph) in the gross income of the estate as income in respect of a decedent under section 691.

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

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

(e) *Other distributions*—(1) *Character of distributions.* Amounts distributed by the trust to an organization described in section 170(c) other than the annuity or unitrust amount shall be considered as a distribution of corpus and of those categories of income specified in paragraph (d)(1) of this section in an order inverse to that prescribed in such paragraph. The character of such amounts shall be determined at the end of the taxable year of the trust in which the distribution is made after the character of the annuity or unitrust amount has been determined.

(2) *Distributions in kind.* In the case of a distribution of amounts described in subparagraph (1) of this paragraph, no gain or loss is realized by the trust by reason of a distribution in kind unless such distribution is in satisfaction of a right to receive a distribution of a specific dollar amount or in specific property other than that distributed.

(f) *Computation of annuity or unitrust amounts in certain circumstances*—(1) *Short taxable years.* The governing instrument shall provide that in the case of a taxable year which is for a period of less than 12 months other than the taxable year in which occurs the end of the period specified in paragraphs (a)(5) of §§ 1.664–2 and 1.664–3:

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

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

(2) *Last taxable year of period.* (i) The governing instrument shall provide that in the case of the taxable year in which occurs the end of the period specified in paragraphs (a)(5) of §§ 1.664–2 or 1.664–3:

(*a*) The annuity or unitrust amount which must be distributed under paragraph (a)(1)(i) of § 1.664–2 and paragraph (a)(1)(i)(*a*) of § 1.664–3 shall be such amount multiplied by a fraction the numerator of which is the number of days between the beginning of such taxable year and the end of such period and the denominator of which is 365 (366 if February 29th is a day included in the numerator), and

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

(ii) See paragraph (a)(5) of §§ 1.664–2 and 1.664–3 for a special rule allowing termination of payment of the annuity or unitrust amount with the regular payment next preceding the termination of the period specified therein.

(g) *Effective date.* (1) The provisions of this section are effective with respect to transfers in trust made after July 31, 1969. Any trust created (within the meaning of applicable local law) prior to August 1, 1969, is not a charitable remainder trust even if it otherwise satisfies the definition of a charitable remainder trust.

(2) Property transferred to a trust created (within the meaning of applicable local law) before August 1, 1969, whose governing instrument provides that an organization described in section 170(c) receives an irrevocable remainder interest in such trust, shall, for purposes of subparagraphs (1) and (3) of this paragraph, be deemed transferred to a trust created on the date of such transfer provided that the transfer occurs after July 31, 1969, and prior to [insert the date 30 days after the publication of this notice] and the transferred property and any undistributed income therefrom is severed and placed in a separate trust before January 1, 1972, or if later, on or before the 30th day after the date on which any judicial proceedings begun before January 1, 1972, which are required to sever such property, become final.

(3) A trust created (within the meaning of applicable local law) subsequent to July 31, 1969, and within 30 days following publication of this regulation as a Treasury decision, which is not a charitable remainder trust at the date of its creation, may be treated as a charitable remainder trust from the date it would be deemed created under § 1.664–1 (a)(3) and (4)(i) for all purposes provided that all the following requirements are met:

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

(ii) The governing instrument of the trust is amended so that the trust will meet the definition of a charitable remainder annuity trust (as defined in § 1.664–2), or a charitable remainder unitrust (as defined in § 1.664–3) and, if applicable, will meet the requirement of paragraph (a)(4)(i) of this section that payment of the annuity or unitrust amount with respect to property passing at death begin as of the date of death, before January 1, 1972, or, if later, on or before the 30th day after the date on which any judicial proceedings which are begun before January 1, 1972, and which are required to amend its governing instrument, become final. Notwithstanding the prior sentence, the requirements that the governing instrument of the trust contain the provisions specified in paragraph (f) of § 1.664–1 (relating to computation of annuity or unitrust amounts in certain circumstances), paragraphs (a)(6) of §§ 1.664–2 and 1.664–3 (relating to transfers to alternative organizations), paragraphs (b) of §§ 1.664–2 and 1.664–3 (relating to additional contributions), and that part of paragraph (a)(1) of § 1.664–3 relating to incorrect valuations, shall not apply to trusts created (within the meaning of applicable local law) before publication of this regulation as a Treasury decision. In the case of a trust created (within the meaning of applicable local law) subsequent to July 31, 1969, and prior to 30 days after the publication of this regulation as a Treasury decision, the provisions of section 508(d)(2)(A) shall not apply if the governing instrument of the trust is amended so as to comply with the requirements of section 508(e) before January 1, 1972, or, if later, on or before the 30th day after the date on which any

judicial proceedings which are begun before January 1, 1972, and which are required to amend its governing instrument, become final. Notwithstanding the provisions of paragraphs (a)(3) and (a)(4) of §§ 1.664–2 or 1.664–3, the governing instrument may grant to the trustee a power to amend the governing instrument for the sole purpose of complying with the requirements of this section and § 1.664–2 or § 1.664–3 provided that at the creation of the trust, the governing instrument:

(*a*) Provides for the payment of a unitrust amount described in § 1.664–3(a)(1)(i) or an annuity which meets the requirements of paragraph (a)(2) of §§ 1.664–3 or 1.664–2,

(*b*) Designates the recipients of the trust and the period for which the amount described in (*a*) of this subdivision is to be paid, and

(*c*) Provides that an organization described in section 170(c) receives an irrevocable remainder interest in such trust.

The mere granting of such a power is not sufficient to meet the requirements of this subparagraph that the governing instrument be amended in the manner and within the time limitations of this subparagraph.

(iii) (*a*) Where the amount of the distributions which would have been made by the trust to a recipient if the amended provisions of such trust had been in effect from the time of creation of such trust exceeds the amount of the distributions made by the trust prior to its amendment, the trust pays an amount equal to such excess to the recipient.

(*b*) Where the amount of distributions made to the recipient prior to the amendment of the trust exceeds the amount of the distributions which would have been made by such trust if the amended provisions of such trust had been in effect from the time of creation of such trust, such excess is repaid to the trust by the recipient.

See paragraph (d)(4) of this section, for rules relating to the year of inclusion in the case of an underpayment to a recipient and the allowance of a deduction in the case of an overpayment to a recipient. A deduction for a transfer to a charitable remainder trust shall not be allowed until the requirements of this paragraph are met and then only if the deduction is claimed on a timely-filed return (including extensions) or on a claim for refund filed within the period of limitations prescribed by section 6511(a).

§ 1.664–2 Charitable remainder annuity trust.

(a) *Description.* A charitable remainder annuity trust is a trust which complies with the applicable provisions of § 1.664–1 and meets all of the following requirements:

(1)(i) The governing instrument provides that the trust shall pay a sum certain not less often than annually for each year of the period specified in subparagraph (5) of this paragraph. See paragraph (f)(1) of § 1.664–1 for rules relating to the computation of a sum certain for short taxable years and for the last year of the period specified in subparagraph (5) of this paragraph. The trustee will have failed to comply with the provisions of the governing instrument if payment is made subsequent to a reasonable time after the close of the taxable year of the trust. For purposes of the preceding sentence, a reasonable time will not ordinarily extend beyond the date by which the trustee is required to file form 1041–B (including extensions). A sum certain is a stated dollar amount which is the same either as to each recipient or as to the total amount payable for each year of such period. For example, a provision for an amount which is the same every year to A until his death and concurrently an amount which is the same every year to B until his death, with the amount to each recipient to terminate at his death, would satisfy the above rule. Similarly, provision for an amount to A and B for their joint lives and then to the survivor would satisfy the above rule. In the case of a distribution to an organization described in section 170(c) at the death of a recipient or the expiration of a term of years, the governing instrument may provide for a reduction of the stated amount payable after such a distribution provided that:

(*a*) The reduced amount payable is the same either as to each recipient or as to the total amount payable for each year of the balance of such period, and

(*b*) The requirements of subparagraph (2)(ii) of this paragraph are met.

(ii) The stated dollar amount may be expressed as a fraction or a percentage of the initial net fair market value of the property irrevocably passing in trust as finally determined for Federal tax purposes. If the stated dollar amount is so expressed and such market value is incorrectly determined by the fiduciary, the requirement of this subparagraph will be satisfied if the governing instrument provides that in such event the trust shall pay to the recipient (in the case of an undervaluation) or be repaid by the recipient (in the case of an overvaluation) an amount equal to the difference between the amount which the trust should have paid the recipient if the correct value were used and the amount which the trust actually paid the recipient. Such payments or repayments must be made within a reasonable period after the final determination of such value. Any payment due to a recipient by reason of such incorrect valuation shall be considered to be a payment required to be distributed at the time of such final determination for purposes of paragraph (d)(4)(ii) of § 1.664–1. See paragraph (d)(4) of § 1.664–1 for rules relating to the year of inclusion of such payments and the allowance of a deduction for such repayments. See paragraph (b) of this section for rules relating to future contributions. For rules relating to required adjustments for underpayments or overpayments of the amount described in this paragraph in respect of payments made during a reasonable period of administration, see paragraph (a)(4) of § 1.664–1. The application of the rule permitting the stated dollar amount to be expressed as a fraction or a percentage of the initial net fair market value of the property irrevocably passing in trust as finally determined for Federal tax purposes may be illustrated by the following example:

Example. The will of X provides for the transfer of one-half of his residuary estate to a charitable remainder annuity trust which is required to pay to W for life an annuity equal to 5 percent of the initial net fair market value of the interest passing in trust as finally determined for Federal tax purposes. The annuity is to be paid on December 31 of each year beginning from the date of H's death. The will also provides that if such initial net fair market value is incorrectly determined, the trust shall pay to W, in the case of an undervaluation, or be repaid by W, in the case of an overvaluation, an amount equal to the difference between the amount which the trust should have paid if the correct value were used and the amount which the trust actually paid. X dies on March 1, 1971. The executor files an estate tax return showing the value of the residuary estate as $250,000 before reduction for taxes and expenses of $50,000. The executor paid to W $4,192 ([$250,000−$50,000]×½×5 percent×306/365) on December 31, 1971. On January 1, 1972, the executor transfers one-half of the residue of the estate to the trust. The trust adopts the calendar year as its taxable year. The value of the residuary estate is finally determined for Federal tax purposes to be $240,000 ($290,000−$50,000). Accordingly, the amount which the executor should have paid to W is $5,030 ([$290,000−$50,000]×½×5 percent×306/365). Consequently, an additional amount of $838 ($5,030−$4,192) must be paid to W within a reasonable period after the final determination of value for Federal tax purposes.

(2)(i) The total amount payable under subparagraph (1) of this paragraph is not less than 5 percent of the initial net fair market value of the property placed in trust as finally determined for Federal tax purposes.

(ii) A trust will not fail to meet the requirements of this subparagraph by reason of the fact that it provides for a reduction of the stated amount payable upon the death of a recipient or the expiration of a term of years provided that:

(*a*) A distribution is made to an organization described in section 170(c) at the death of such recipient or the expiration of such term of years, and

(*b*) The total amounts payable each year under subparagraph (1) of this paragraph after such distribution are not less than a stated dollar amount which bears the same ratio to 5 percent of the initial net fair market value of the trust assets as the net fair market value of the trust assets immediately after such distribution bears to the net fair market value of the trust assets immediately before such distribution.

(ii) In the case where the grantor of an inter vivos trust underestimates in good faith the initial net fair market value of the property placed in trust as finally determined for Federal tax purposes and specifies a fixed dollar amount for the annuity which is less than 5 percent of the initial net fair market value of the property placed in trust as finally determined for Federal tax purposes, the

trust will be deemed to have met the 5 percent requirement if the grantor or his representative consents, by appropriate agreement with the Internal Revenue Service, to accept an amount equal to 20 times the annuity as the fair market value of the property placed in trust for purposes of determining the appropriate charitable contributions deduction.

(3) (i) The amount described in subparagraph (1) of this paragraph is payable to or for the use of a named person or persons, at least one of which is not an organization described in section 170(c). If the amount described in subparagraph (1) of this paragraph is to be paid to an individual or individuals, all such individuals must be living at the time of the creation of the trust. A named person or persons may include members of a named class provided that, in the case of a class which includes any individual, all such individuals must be alive and ascertainable at the time of the creation of the trust. For example, in the case of a testamentary trust, the testator's will may provide that an amount shall be paid to his children living at his death.

(ii) A trust is not a charitable remainder annuity trust if any person has the power to alter the amount to be paid to any named person other than an organization described in section 170(c) if such power would cause any person to be treated as the owner of the trust, or any portion thereof, if subpart E of Part 1 of subchapter J of chapter 1 of subtitle A of the Code were applicable to such trust. See paragraph (a)(4) of this section for a rule permitting the retention by a grantor of a testamentary power to revoke or terminate the interest of any recipient other than an organization described in section 170(c). For example, the governing instrument may not retain for the grantor the power to allocate the annuity among members of a class unless such power falls within one of the exceptions to section 674(a).

(4) No amount other than the amount described in subparagraph (1) of this paragraph may be paid to or for the use of any person other than an organization described in section 170(c). An amount is not paid to or for the use of any person other than an organization described in section 170(c) if the amount is transferred for full and adequate consideration. The trust may not be subject to a power to invade, alter, amend, or revoke for the beneficial use of a person other than an organization described in section 170(c). Notwithstanding the prior sentence, the grantor may retain the power exercisable only by will to revoke or terminate the interest of any recipient other than an organization described in section 170(c). The governing instrument may provide that a specified amount other than the amount described in subparagraph (1) of this paragraph shall be paid (or may be paid in the discretion of the trustee) to an organization described in section 170(c) provided that, in the case of distributions in kind, the adjusted basis of the property distributed is fairly representative of the adjusted basis of the property available for payment on the date of payment. For example, the governing instrument may provide that a portion of the trust assets may be distributed currently, or upon the death of one or more recipients, to an organization described in section 170(c).

(5) (i) The period for which an amount described in subparagraph (1) of this paragraph is payable begins with the first year of the charitable remainder trust and continues for either the life or lives of a named individual or individuals or for a term of years not to exceed 20 years. Only an individual or an organization described in section 170(c) may receive an amount for the life of an individual. If an individual receives an amount for life, it must be for only his life. Payment of the amount described in subparagraph (1) of this paragraph may terminate with the regular payment next preceding the termination of the period described in this subparagraph. The fact that the recipient may not receive such last payment shall not be taken into account for purposes of determining the present value of the remainder interest. In the case of an amount payable for a term for years, the length of the term of years shall be ascertainable with certainty at the time of the creation of the trust, except that the term may be terminated by the death of the recipient or by the grantor's exercise by will of a retained power to revoke or terminate the interest of any recipient other than an organization described in section 170(c).

(ii) The 5 percent requirement provided in subparagraph (2) of this paragraph must be met until the termination of all of the payments described in subparagraph (1) of this paragraph.

For example, the following provisions would satisfy the above rules: An amount equal to at least 5 percent of the initial net fair market value of the property placed in trust to A and B for their joint lives and then to the survivor for his life; an amount equal to at least 5 percent of the initial net fair market value of the property placed in trust to A for life or for a term of years, whichever is longer (or shorter), if the length of the term of years is not longer than 20 years; an amount equal to at least 5 percent of the initial net fair market value of the property placed in trust to A for a term of years not longer than 20 years and then to B for life (provided B was living at the date of creation of the trust); an amount to A for his life and concurrently an amount to B for his life (the amount to each recipient to terminate at his death) if the amount given to each individual is not less than 5 percent of the initial net fair market value of the property placed in trust; an amount to A for his life and concurrently an equal amount to B for his life, and at the death of the first to die, the trust to distribute one-half of the then value of its assets to an organization described in section 170(c) if the total of the amounts given to A and B is not less than 5 percent of the initial net fair market value of the property placed in trust.

(6) (i) At the end of the period specified in subparagraph (5) of this paragraph, the entire corpus of the trust is required to be irrevocably transferred, in whole or in part, to or for the use of one or more organizations described in section 170(c) or retained, in whole or in part, for such use. The trustee shall have a reasonable time after the period specified in subparagraph (5) of this paragraph to complete the settlement of the trust, not to extend beyond the last day of the month in which occurs the 90th day following the end of the period specified in subparagraph (5) of this paragraph. During such time, the trust shall continue to be treated as a charitable remainder trust for all purposes, such as sections 664 and 4947(a)(2). Upon the expiration of such period, the taxable year of the trust shall terminate and the trust shall cease to be treated as a charitable remainder trust for all purposes. If the trust continues in existence, it will be subject to the provisions of section 4947(a)(1) unless the trust is exempt from taxation under section 501(a). For purposes of determining whether the trust is exempt under section 501(a) as an organization described in section 501(c)(3), the trust shall be deemed to have been created at the time it ceases to be treated as a charitable remainder trust.

(ii) Where interests in such corpus are given to more than one organization described in section 170(c) such interests may be enjoyed by them either concurrently or successively. The governing instrument shall provide that in the event that an organization to or for the use of which the trust corpus is to be transferred or for the use of which the trust corpus is to be retained is not an organization described in section 170(c) at the time when any amount is to be irrevocably transferred to or for the use of such organization, such amount shall be transferred to or for the use of or retained for the use of one or more alternative organization which are described in section 170(c) at such time. Such alternative organization or organizations may be selected in any manner provided by the terms of the governing instrument.

(b) *Additional contributions.* The governing instrument shall provide that no additional contributions may be made to the charitable remainder annuity trust after the initial contribution. For purposes of this section, all property passing to a charitable remainder annuity trust by reason of death shall, if distributed to the trust during a reasonable period of administration of an estate or settlement of a trust, be considered one contribution. The principles of § 1.641(b)-3 are applicable to this paragraph for purposes of determining what is a reasonable period of administration or settlement.

(c) *Calculation of the fair market value of the remainder interest of a charitable remainder annuity trust.* For purposes of sections 170, 2055, 2106, and 2522, the fair market value of the remainder interest of a charitable remainder annuity trust (as described in this section) is the net fair market value (as of the appropriate valuation date) of the property placed in trust less the present value of the annuity. For purposes of this section, the term "appropriate valuation date" means the date on which the property is transferred to the

trust by the donor except that, for purposes of section 2055 or 2106, it means the date of death unless the alternate valuation date is elected in accordance with section 2032 and the regulations thereunder in which event it means the alternate valuation date. The present value of an annuity is computed under § 20.2031–10 of the Estate Tax Regulations regardless of when the trust was created.

(d) *Deduction for transfers to a charitable remainder annuity trust.* For rules relating to a deduction for transfers to a charitable remainder annuity trust, see sections 170, 2055, 2106, or 2522 and the regulations thereunder. Any claim for deduction on any return for the value of a remainder interest in a charitable remainder annuity trust must be supported by a full statement attached to the return showing the computation of the present value of such interest. The deduction allowed by section 170 is limited to the fair market value of the remainder interest of a charitable remainder annuity trust regardless of whether an organization described in section 170(c) also receives a portion of the annuity. For a special rule relating to the reduction of the amount of a charitable contribution of certain ordinary income property or capital gain property, see sections 170(e)(1)(A) or 170(e)(1)(B)(i) and the regulations thereunder. For rules for postponing the time for deduction of a charitable contribution of a future interest in tangible personal property, see section 170(a)(3) and the regulations thereunder.

§ 1.664–3 Charitable remainder unitrust.

(a) *Description.* A charitable remainder unitrust is a trust which complies with the applicable provisions of § 1.664–1 and meets all of the following requirements:

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

(*b*) Notwithstanding (*a*) of this subdivision, the governing instrument may provide that the trust shall pay for any year either the amount described in (*1*) or the total of the amounts described in (*1*) and (*2*).

(*1*) The amount of trust income (as defined in section 643(b) and the regulations thereunder), for a taxable year to the extent that such amount is not more than the amount required to be distributed under (*a*) of this subdivision.

(*2*) An amount of the trust income for a taxable year which is in excess of the amount required to be distributed under (*a*) of this subdivision for such year, to the extent that (by reason of (*1*)) the aggregate of the amounts paid in prior years was less than the aggregate of such required amounts.

(ii) The fixed percentage may be expressed either as a fraction or as a percentage and must be payable each year in the period specified in subparagraph (5) of this paragraph. A percentage is fixed if the percentage is the same either as to each recipient or as to the total percentage payable each year of such period. For example, provision for a fixed percentage which is the same every year to A until his death and concurrently a fixed percentage which is the same every year to B until his death, the fixed percentage to each recipient to terminate at his death, would satisfy the rule. Similarly, provision for a fixed percentage to A and B for their joint lives and then to the survivor would satisfy the rule. In the case of a distribution to an organization described in section 170(c) at the death of a recipient or the expiration of a term of years, the governing instrument may provide for a reduction of the fixed percentage payable after such distribution provided that:

(*a*) The reduced fixed percentage is the same either as to each recipient or as to the total amount payable for each year of the balance of such period, and

(*b*) The requirements of subparagraph (2)(ii) of this paragraph are met.

(iii) The governing instrument shall provide that in the case where the net fair market value of the trust assets is incorrectly determined by the fiduciary, the trust shall pay to the recipient (in the case of an undervaluation) or be repaid by the recipient (in the case of an overvaluation) an amount equal to the difference between the amount which the trust should have paid the recipient if the correct value were used and the amount which the trust actually paid the recipient. Such payments or repayments must be made within a reasonable period after the final determination of such value. Any payment due to a recipient by reason of such incorrect valuation shall be considered to be a payment required to be distributed at the time of such final determination for purposes of paragraph (d)(4)(ii) of § 1.664–1. See paragraph (d)(4) of § 1.664–1 for rules relating to the year of inclusion of such payments and the allowance of a deduction for such repayments. See paragraph (b) of this section for rules relating to future contributions.

(iv) In computing the net fair market value of the trust assets there shall be taken into account all assets and liabilities without regard to whether particular items are taken into account in determining the income of the trust. The net fair market value of the trust assets may be determined on any one date during the taxable year of the trust, or by taking the average of valuations made on more than one date during the taxable year of the trust, so long as the same valuation date or dates and valuation methods are used each year. If the governing instrument does not specify the valuation date or dates, the trustee shall select such date or dates and shall indicate his selection on the first return on Form 1041–B which the trust is required to file. The amount described in subdivision (i)(*a*) of this subparagraph which must be paid each year must be based upon the valuation for such year.

(v) The governing instrument shall provide that the amount described in this subparagraph shall be paid to a person or persons described in subparagraph (3) of this paragraph during every taxable year of the trust prior to the end of the period specified in subparagraph (5) of this paragraph. See paragraph (f) of § 1.664–1 for rules relating to the computation of the amount payable under this subparagraph for short taxable years and for the last year of the period specified in subparagraph (5) of this paragraph. The trustee will have failed to comply with the provisions of the governing instrument if payment is made subsequent to a reasonable time after the close of the taxable year of the trust. For purposes of the preceding sentence, a reasonable time will not ordinarily extend beyond the date by which the trustee is required to file Form 1041–B (including extensions).

(2)(i) The fixed percentage described in subparagraph (1)(i) of this paragraph with respect to all beneficiaries taken together is not less than 5 percent.

(ii) A trust will not fail to meet the requirements of this subparagraph by reason of the fact that it provides for a reduction of the fixed percentage payable upon the death of a recipient or the expiration of a term of years provided that:

(*a*) A distribution is made to an organization described in section 170(c) at the death of such recipient or the expiration of such term of years, and

(*b*) The total of the percentage payable under subparagraph (1) of this paragraph after such distribution is not less than 5 percent.

(3)(i) The amount described in subparagraph (1) of this paragraph is payable to or for the use of a named person or persons, at least one of which is not an organization described in section 170(c). If the amount described in subparagraph (1) of this paragraph is to be paid to an individual or individuals, all such individuals must be living at the time of creation of the trust. A named person or persons may include members of a named class except in the case of a class which includes any individual, all such individuals must be alive and ascertainable at the time of the creation of the trust. For example, in the case of a testamentary trust, the testator's will may provide that the required amount shall be paid to his children living at his death.

(ii) A trust is not a charitable remainder unitrust if any person has the power to alter the amount to be paid to any named person other than an organization described in section 170(c) if such power would cause any person to be treated as the owner of the trust, or any portion thereof, if subpart E of part 1 of subchapter J of chapter 1 of subtitle A of the Code were applicable to such trust. See paragraph (a)(4) of this section for a rule permitting the retention by a grantor of a testamentary power to revoke or terminate the interest of any recipient other than an organization described in section 170(c). For example, the governing instrument may not retain for the grantor the power

to allocate the fixed percentage among members of a class unless such power falls within one of the exceptions to section 674(a).

(4) No amount other than the amount described in subparagraph (1) of this paragraph may be paid to or for the use of any person other than an organization described in section 170(c). An amount is not paid to or for the use of any person other than an organization described in section 170(c) if the amount is transferred for full and adequate consideration. The trust may not be subject to a power to invade, alter, amend, or revoke for the beneficial use of a person other than an organization described in section 170(c). Notwithstanding the prior sentence, the grantor may retain the power exercisable only by will to revoke the interest of any recipient other than an organization described in section 170(c). The governing instrument may provide that a specified amount other than the amount described in subparagraph (1) of this paragraph shall be paid (or may be paid in the discretion of the trustee) to an organization described in section 170(c) provided that, in the case of distributions in kind, the adjusted basis of the property distributed is fairly representative of the adjusted basis of the property available for payment on the date of payment. For example, the governing instrument may provide that a portion of the trust assets may be distributed currently, or upon the death of one or more recipients, to an organization described in section 170(c).

(5) (i) The period for which an amount described in subparagraph (1) of this paragraph is payable begins with the first year of the charitable remainder trust and continues for either the life or lives or a named individual or individuals or for a term of years not to exceed 20 years. Only an individual or an organization described in section 170(c) may receive an amount for the life of an individual. If an individual receives an amount for life, it must be for only his life. Payment of the amount described in subparagraph (1) of this paragraph may terminate with the regular payment next preceding the termination of the period described in this subparagraph. The fact that the recipient may not receive such last payment shall not be taken into account for purposes of determining the present value of the remainder interest. In the case of an amount payable for a term of years, the length of the term of years shall be ascertainable with certainty at the time of the creation of the trust, except that the term may be terminated by the death of the recipient or by the grantor's exercise by will of a retained power to revoke or terminate the interest of any recipient other than an organization described in section 170(c).

(ii) The 5 percent requirement provided in subparagraph (2) of this paragraph must be met until the termination of all of the payments described in subparagraph (1) of this paragraph. For example, the following provisions would satisfy the above rules: A fixed percentage of at least 5 percent to A and B for their joint lives and then to the survivor for his life; a fixed percentage of at least 5 percent to A for life or for a term of years, whichever is longer (or shorter), if the length of the term of years is not longer than 20 years; a fixed percentage of at least 5 percent to A for a term of years not longer than 20 years and then to B for life (provided B was living at the creation of the trust); a fixed percentage to A for his life and concurrently a fixed percentage to B for his life (the percentage to each recipient to terminate at his death) if the percentage given to each individual is not less than 5 percent; a fixed percentage to A for his life and concurrently an equal percentage to B for his life, and at the death of the first to die, the trust to distribute one-half of the then value of its assets to an organization described in section 170(c) if the total of the percentage is not less than 5 percent for the entire period described in this subparagraph.

(6) (i) At the end of the period specified in subparagraph (5) of this paragraph the entire corpus of the trust is required to be irrevocably transferred, in whole or in part, to or for the use of one or more organizations described in section 170(c) or retained, in whole or in part, for such use. The trustee shall have a reasonable time after the period specified in subparagraph (5) of this paragraph to complete the settlement of the trust, not to extend beyond the last day of the month in which occurs the 90th day following the end of the period specified in subparagraph (5) of this paragraph. During such time, the trust shall continue to be treated as a charitable remainder trust for all purposes, such as sections 664 and 4947(a)(2). Upon the expiration of such period, the taxable year of the trust shall terminate and the trust shall cease to be treated as a charitable remainder trust for all purposes. If the trust continues in existence, it will be subject to the provisions of section 4947(a)(1) unless the trust is exempt from taxation under section 501(a). For purposes of determining whether the trust is exempt under section 501(a) as an organization described in section 501(c)(3), the trust shall be deemed to have been created at the time it ceases to be treated as a charitable remainder trust.

(ii) Where interests in such corpus are given to more than one organization described in section 170(c) such interests may be enjoyed by them either concurrently or successively. The governing instrument shall provide that in the event that an organization to or for the use of which the trust corpus is to be transferred or for the use of which the trust corpus is to be retained is not an organization described in section 170(c) at the time when any amount is to be irrevocably transferred to or for the use of such organization, such amount shall be transferred to or for the use of one or more alternative organizations which are described in section 170(c) at such time or retained for such use. Such alternative organization or organizations may be selected in any manner provided by the terms of the governing instrument.

(b) *Additional contributions.* The governing instrument of the trust shall either prohibit additional contributions to the trust after the initial contribution or shall provide that for purposes of the taxable year of the trust in which the additional contribution is made:

(1) Where no valuation date occurs after the time of the contribution and during the taxable year in which the contribution is made, the additional property shall be valued at the time of contribution; and

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

The application of the preceding rules may be illustrated by the following examples:

Example (1). On March 2, 1971, X makes an additional contribution of property to a charitable remainder unitrust. The taxable year of the trust is the calendar year and the regular valuation date in January 1 of each year. For purposes of computing the required payout with respect to the additional contribution for the year of contribution, the additional contribution is valued on March 2, 1971, the time of contribution. The property had a value on that date of $5,000. Income from such property in the amount of $250 was received on December 31, 1971. The required payout with respect to the additional contribution for the year of contribution is $208 (5 percent × $5,000 × 305/365). The income earned after the date of the contribution and after the regular valuation date does not enter into the computation.

Example (2). On July 1, 1971, X makes an additional contribution of $10,000 to a charitable remainder unitrust. The taxable year of the trust is the calendar year and the regular valuation date is December 31 of each year. The fixed percentage is 5 percent. Between July 1, 1971, and December 31, 1971, the additional property appreciates in value to $12,500 and earns $500 of income. Because the regular valuation date for the year of contribution occurs after the date of the additional contribution, the additional contribution including income earned by it is valued on the regular valuation date. Thus, the required payout with respect to the additional contribution for the year of contribution is $325.87 (5 percent × [$12,500 + $500] × 183/365).

(c) *Calculation of the fair market value of the remainder interest of a charitable remainder unitrust.* See § 1.664-4 for rules relating to the calculation of the fair market value of the

remainder interest of a charitable remainder unitrust.

(d) *Deduction for transfers to a charitable remainder unitrust.* For rules relating to a deduction for transfers to a charitable remainder unitrust, see sections 170, 2055, 2106, or 2522 and the regulations thereunder. The deduction allowed by section 170 for transfers to charity is limited to the fair market value of the remainder interest of a charitable remainder unitrusts regardless of whether an organization described in section 170(c) also receives a portion of the amount described in § 1.664–3(a)(1). For a special rule relating to the reduction of the amount of a charitable contribution of certain ordinary income property or capital gain property, see section 170(e)(1)(A) or (B)(i) and the regulations thereunder. For rules for postponing the time for deduction of a charitable contribution of a future interest in tangible personal property, see section 170(a)(3) and the regulations thereunder.

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

(a) *General rule.* (1) For the purposes of section 170, 2055, 2106, or 2522, the fair market value of a remainder interest in a charitable remainder unitrust (as described in § 1.664–3) is its present value determined under this section. The present value determined under this section shall be computed on the basis of (i) life contingencies determined, as to each male and female life involved, from the value of l_x that are set forth in columns (2) and (3), respectively, of table LN of paragraph (f) of § 20.2031–10 of this chapter (Estate Tax Regulations), (ii) interest at the rate of 6 percent a year, compounded annually, and (iii) the assumption that the amount described in paragraph (a)(1)(i)(*a*) of § 1.664–3 shall be distributed in accordance with the payout sequence prescribed in the governing instrument. If the governing instrument does not prescribe when the distribution shall be made during the period for which the payment is made, for purposes of this section, the distribution shall be considered payable on the first day of the period for which the payment is made.

(2) The method of applying these principles of charitable remainder unitrusts which have certain payout sequences is set forth in paragraph (b) of this section.

(3) If the computation of the value of the remainder interest of a charitable remainder unitrust requires the use of a factor which is not provided in paragraph (b) of this section, the Commissioner may, if conditions permit, supply the factor upon request. The request must be accompanied by a statement of the date of birth and sex of each individual the duration of whose life may affect the value of the remainder interest and by copies of the relevant instruments. If the Commissioner furnishes the factor, a copy of the letter supplying the factor shall be attached to the tax return in which the deduction is claimed. Many special factors involving the valuation of a remainder interest dependent upon the continuation or termination of more than one life may be found in, or computed with the use of, the tables contained in, the publication entitled "Actuarial Values I: Valuation of Last Survivor Charitable Remainders." This publication may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. If the Commissioner does not furnish the factor, the taxpayer must furnish a factor computed in accordance with the principles set forth in subparagraph (1) of this paragraph.

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

(b) *Valuation of charitable remainder unitrusts having certain payout sequences.* (1) The present value determined under this section of a remainder interest which is dependent on a term of years or the termination of the life of one individual shall be determined under this paragraph provided that the amount of the payout as of any payout date during the first taxable year of the trust is not larger than the amount which the trust could distribute on such date under paragraph (f)(1)(i) of § 1.664–1 if the taxable year of the trust were to end on such date. The present value of the remainder interest in such trust shall be determined by computing the adjusted payout rate (as defined in subparagraph (2) of this paragraph) and following the procedure outlined in subparagraph (3) or (4) of this paragraph, whichever is applicable. The present value of a remainder interest which is dependent on a term of years is computed under subparagraph (3) of this paragraph. The present value of a remainder interest which is dependent on the termination of the life of one individual is computed under subparagraph (4) of this paragraph.

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

(3) *Period is a term of years.* If the period described in paragraph (a)(5) of § 1.664–3 is a term of years, the factor which is used in determining the present value of the remainder interest is the factor under the appropriate adjusted payout rate in column (2) of Table D in subparagraph (5) of this paragraph opposite the number in column (1) of Table D which corresponds to the number of years in the term. If the adjusted payout rate is an amount which is between adjusted payout rates for which factors are provided in Table D, a linear interpolation must be made. The present value of the remainder interest is determined by multiplying the net fair market value (as of the appropriate valuation date) of the property placed in trust by the factor determined under this subparagraph. For purposes of this section, the term "appropriate valuation date" means the date on which the property is transferred to the trust by the donor except that, for purposes of section 2055 or 2106, it means the date of death unless the alternate valuation date is elected in accordance with section 2032 and the regulations thereunder in which event it means the alternate valuation date. If the adjusted payout rate is greater than 9 percent, see paragraph (a)(3) of this section. The application of this paragraph may be illustrated by the following example:

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

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

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

$X = 0.009503$

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

Present value of remainder interest = $100,000 × 0.468636 = $46,863.60.

(4) *Period is the life of one individual.* If the period described in paragraph (a)(5) of § 1.664–3 is the life of one individual, the factor which is used in determining the present value of the remainder interest is the factor under the appropriate adjusted payout rate in column (2) of Table E(1) or E(2) in paragraph (5) of this paragraph opposite the number in column (1) which corresponds to the age of the individual whose life measures the period. Table E(1) is to be used when the individual upon whose life the remainder interest is based is a male and Table E(2) is to be used when such individual is a female whose age is less than 95 years. In the case of a female whose age is more than 94 years, Table E(1) is to be used. For the purposes of the computations described in this paragraph, the age of an individual is to be taken as the age of that individual at his nearest birthday. If the adjusted payout rate is an amount which is between adjusted payout rates

for which factors are provided in Table E(1) or E(2), a linear interpolation must be made. The present value of the remainder interest is determined by multiplying the net fair market value (as of the appropriate valuation date) of the property placed in trust by the factor determined under this subparagraph. If the adjusted payout rate is greater than 9 percent, see paragraph (a)(3) of this section. The application of this paragraph may be illustrated by the following example:

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

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

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

$X = 0.00807$

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

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

* * * * *

PAR. 2. Paragraph (b)(5) of § 1.664-4, as set forth in paragraph 1 of the appendix to the notice of proposed rule making, is corrected as follows:

In Table D, the factor for an adjusted payout rate for 9 percent at year 4 is corrected to read 0.685750 and for 7 percent at year 10 to read 0.483982.

In Table E (1), the factors for the following adjusted payout rates at the stated ages are corrected to read as follows:

Adjusted payout rate (percent)	Age	Corrected factor
5.2	36	0.19815
7.8	11	.02665
8.4	6	.01648
8.6	12	.02270
8.0	59	.32867
8.2	72	.50832

In Table E (2), the factors for the following adjusted payout rates at the stated ages are corrected to read as follows:

Adjusted payout rates (percent)	Age	Corrected factor
9.0	39	0.06459
9.0	80	.57706

[FR Doc.71-13657 Filed 9-17-71;8:45 am]

[26 CFR Part 301]

RESTRICTION ON EXAMINATIONS OF CHURCHES

Notice of Hearing on Proposed Regulations

Proposed regulations under section 7605(c) of the Internal Revenue Code of 1954, relating to restrictions on examinations of churches, appear in the FEDERAL REGISTER for December 17, 1970 (35 F.R. 19115).

A public hearing on the provisions of these proposed regulations will be held on Monday, October 4, 1971, at 10 a.m., e.d.s.t., in Room 3313, Internal Revenue Service Building, 1111 Constitution Avenue NW., Washington, DC 20224.

The rules of § 601.601(a)(3) of the Statement of Procedural Rules (26 CFR Part 601) shall apply with respect to such public hearing. Copies of these rules may be obtained by a request directed to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, or by telephoning (Washington, D.C.) 202-964-3935. Under such § 601.601 (a)(3), person who have submitted written comments or suggestions within the time prescribed in the notice of proposed rule making and who desire to present oral comments should by September 27, 1971, submit an outline of the topics and the time they wish to devote to each topic. Such outlines should be submitted to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224.

Persons who desire a copy of such written comments or suggestions or outlines and who desire to be assured of their availability on or before the beginning of such hearing should notify the Commissioner, in writing, at the above address by September 27, 1971. In such a case, unless time and circumstances permit otherwise, the desired copies are deliverable only at the above address. The charge for copies is twenty-five cents ($0.25) per page, subject to a minimum charge of $1.

K. MARTIN WORTHY,
Chief Counsel.

[FR Doc.71-13918 Filed 9-17-71;12:00pm]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T.D. 71-236]

OPEN TOP METAL MESH CONTAINERS

Instruments of International Traffic

SEPTEMBER 13, 1971.

It has been established to the satisfaction of the Bureau that open top metal mesh containers, 42 inches by 52 inches by 30 inches, with a tag or plate permanently attached showing the name "Kaiser Refractories Co., Oakland, Ontario," used in the transportation of semi-processed raw materials (refractory grains) are substantial, suitable for and capable of repeated use, and used in significant numbers in international traffic.

Under the authority of § 10.41a(a), Customs Regulations (19 CFR 10.41a (a)), Tariff Act of 1930, as amended. These containers may be released under the procedures provided for in § 10.41a, Customs Regulations.

[SEAL] MYLES J. AMBROSE,
Commissioner of Customs.

[FR Doc.71-13820 Filed 9-17-71;8:51 am]

[T.D. 71-235]

JAPANESE YEN

Foreign Currencies; Rates of Exchange

SEPTEMBER 8, 1971.

Rates of exchange certified to the Secretary of the Treasury by the Federal Reserve Bank of New York for the Japanese yen between August 31 and September 3, 1971.

Treasury Decision 71-175 published as the rate of exchange for the Japanese yen for use during the calendar quarter beginning July 1, 1971, through September 30, 1971, $0.00279800, as certified to the Secretary of the Treasury by the Federal Bank of New York under the provisions of section 522(c) of the Tariff Act of 1930, as amended (31 U.S.C. 372 (c)).

For the dates listed below, the Federal Reserve Bank of New York certified rates for the Japanese yen which vary by 5 per centum or more from the rate $0.00279800. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for customs purposes to convert Japanese currency into currency of the United States, conversion shall be at the daily rate certified by the Federal Reserve Bank of New York, as herewith published:

Japanese yen:	
August 31, 1971	$0.00294250
September 1, 1971 [1]	.00279800
September 2, 1971	.00295000
September 3, 1971	.00294000

[1] Rate did not vary by 5 per centum or more from the rate of exchange published in T.D. 71-175 for use during calendar quarter beginning July 1 through September 30, 1971.

Rates of exchange certified for the Japanese yen which vary by 5 per centum or more from the rate $0.00279800 during the balance of the calendar quarter ending September 30, 1971, will be published in a Treasury Decision for dates subsequent to September 3, 1971, and before October 1, 1971.

EDWIN F. RAINS,
Acting Commissioner of Customs.

[FR Doc.71-13821 Filed 9-17-71;8:51 am]

Internal Revenue Service

[Order No. 31 (Rev. 3)]

ASSISTANT COMMISSIONER (COMPLIANCE) AND DIRECTOR, ALCOHOL, TOBACCO AND FIREARMS DIVISION

Delegation of Authority Regarding Administration and Enforcement of Laws Relating to Distilled Spirits, Wines, Beer, Tobacco, Firearms, and Explosives

1. (a) Pursuant to the authority vested in the Commissioner of Internal Revenue by the regulations in Title 26 of the Code of Federal Regulations implementing chapters 51, 52, and 53 of the Internal Revenue Code and by Treasury Department Order No. 150-37, dated March 17, 1955, there is hereby delegated to the Assistant Commissioner (Compliance) and the Director, Alcohol, Tobacco and Firearms Division, the authority to administer and enforce chapters 51, 52, and 53 of the Internal Revenue Code relating, respectively, to distilled spirits, wines, and beer, tobacco, and firearms, including the authority to supervise and regulate the liquor and tobacco industries, and the determination of appeals in administrative proceedings involving the denial of applications for industrial alcohol and tobacco permits and the annulment, revocation, and suspension of such permits.

(b) Pursuant to the authority vested in the Commissioner by Treasury Department Order No. 30, dated June 12, 1940, and No. 150-2, dated May 15, 1952, there is hereby delegated to the Assistant Commissioner (Compliance) and the Director, Alcohol, Tobacco and Firearms Division, the authority to administer and enforce the Federal Alcohol Administration Act (27 U.S.C. chapter 8), including the authority to accept or reject offers in compromise submitted pursuant to such Act, and the determination of appeals in administrative proceedings involving the denial of applications for beverage permits and the annulment, revocation, and suspension of such permits.

(c) Pursuant to the authority vested in the Commissioner by 26 CFR Part 178, there is hereby delegated to the Assistant Commissioner (Compliance) and the Director, Alcohol, Tobacco and Firearms Division, the authority to administer and enforce 18 U.S.C. chapter 44, relating to firearms and including the determination of appeals in administrative proceedings involving the denial of applications for firearms licenses and the revocation of such licenses; and Title VII of the Omnibus Crime Control and Safe Streets Act of 1968 (18 U.S.C. Appendix), as amended, relating to unlawful possession or receipt of firearms.

(d) Pursuant to the authority vested in the Commissioner by Treasury Decision 4662, dated July 3, 1936, and Treasury Department Order No. 150-2 dated May 15, 1952, there is hereby delegated to the Assistant Commissioner (Compliance) and the Director, Alcohol, Tobacco and Firearms Division, the authority to administer and enforce 18 U.S.C. 1262-1265. 3615, relating to the liquor traffic.

(e) Pursuant to the authority vested in the Commissioner by Treasury Department Order No. 149, dated March 5, 1952, and No. 150-2, dated May 15, 1952, there is hereby delegated to the Assistant Commissioner (Compliance) and the Director, Alcohol, Tobacco and Firearms Division, the authority to remit or mitigate forfeitures of—

(i) Personal property seized as subject to administrative forfeiture under internal revenue laws, and

(ii) Vessels, vehicles, or aircraft seized as subject to administrative forfeiture under the customs laws for transporting or concealment therein in violation of the Act of August 9, 1939 (49 U.S.C. chapter 11), of firearms in respect of which there have been violations of chapter 53 of the Internal Revenue Code.

(f) Pursuant to the authority vested in the Commissioner by Treasury Department Order No. 150-45 (Rev. No. 2), dated October 15, 1970, and 26 CFR Part 181, there is hereby delegated to the Assistant Commissioner (Compliance) and the Director, Alcohol, Tobacco and Firearms Division, the authority to administer and enforce 18 U.S.C. chapter 40, relating to explosives and including the

determination of appeals in administrative proceedings involving the denial of applications for explosive licenses and permits and the revocation of such licenses and permits.

(g) Pursuant to the authority vested in the Commissioner by 26 CFR Parts 178 and 181, relating to applications for relief from firearms or explosives disabilities filed under 18 U.S.C. 925(c) or 18 U.S.C. 845(b), there is hereby delegated to the Assistant Commissioner (Compliance) and the Director, Alcohol, Tobacco and Firearms Division, the authority to take final action on such applications.

2. The authorities delegated under paragraph 1(a)–(f) hereof may be redelegated but not below the position of Assistant Director (Criminal Enforcement), except that specified routine actions required in processing documents involving firearms actions may be further redelegated to the Chief, Firearms and Explosives Branch (Criminal Enforcement) and to coordinators in that section.

3. The authority delegated under paragraph 1(g) may not be redelegated.

4. This order supersedes Delegation Order No. 31 (Rev. 2) issued October 19, 1970.

Issued: September 10, 1971.

Effective: September 10, 1971.

[SEAL] JOHNNIE M. WALTERS,
Commissioner.

[FR Doc.71-13822 Filed 9-17-71;8:51 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

CHIEF, DIVISION OF MANAGEMENT SERVICES, CALIFORNIA STATE OFFICE, ET AL.

Delegation of Authority Regarding Contracts and Leases

SEPTEMBER 13, 1971.

State Director, California, supplement to Bureau of Land Management; Management; Manual 1510.

A. Pursuant to delegation of authority contained in Bureau Manual 1510.03B2d and 1510.03C, the Chief, Division of Management Services, and Chief, Branch of Administrative Management, State Office; District Managers; Chief, Division of Administration, District Offices; are authorized:

1. To enter into contracts with established sources for supplies and services, excluding capitalized equipment and major noncapitalized property regardless of amount.

2. To enter into contracts on the open market, pursuant to section 302(c)(3) of the FPAS Act, as amended, for supplies and services, excluding capitalized equipment and major noncapitalized property not to exceed $2,500; and contracts for construction not to exceed $2,000; provided that the requirement is not available from established sources of supply.

3. To enter into negotiated contracts without advertising pursuant to section 302(c)(2) of the FPAS Act, as amended, for rental of equipment and aircraft covered by offer agreements necessary for the purpose of emergency fire suppression.

B. The District Managers may redelegate the authority for use of Standard Form 44 Order-Invoice-Voucher to any qualified employees under their jurisdiction. The redelegation must be in writing by name designation and subject to monetary and other limitations as may be prescribed by the District Managers. The designated employee, State Office and the Service Centers shall be furnished with a copy of all such redelegations.

C. Contracts or other procurement entered into under delegated authority must conform with applicable regulations and statutory requirements and are subject to availability of appropriations.

D. All redelegated authority shall be exercised in accordance with the applicable limitations in the FPAS Act of 1949, as amended, and in accordance with the applicable policies, procedures and controls prescribed in the General Services Administration and as set forth by the Department of the Interior and Bureau of Land Management.

E. Redelegation of Authority to certain Officials dated May 16, 1968 and published in the FEDERAL REGISTER on May 23, 1968, page 7632, is hereby revoked.

C. J. YOUNG,
Acting State Director.

[FR Doc.71-13776 Filed 9-17-71;8:48 am]

CHIEF, DIVISION OF MANAGEMENT SERVICES, CALIFORNIA, ET AL.

Redelegation of Authority

SEPTEMBER 13, 1971.

1. Pursuant to the authority contained in section 1.1a(1) of BLM Order No. 701 (29 F.R. 10526, July 29, 1964) as amended, the following authority is hereby delegated to the Division and Branch Chiefs of the Divisions of Management Services and Technical Services, to become effective immediately upon publication in the FEDERAL REGISTER (9-18-71).

(a) Chief, Division of Management Services and Chief, Branch of Records and Data Management authority to take action for the State Director in matters listed in sections 1.2c, 1.4a(4).

(b) Chief, Division of Management Services and Chief, Branch of Administrative Management authority to take action for the State Director in matters listed in sections 1.3(a)(1), 1.3(c).

(c) Chief, Branch of Lands and Minerals Operations in the Division of Technical Services authority to take action for the State Director in matters listed in sections 1.2(b), 1.2(e), 1.2(k), 1.3(a)(1), 1.3(c); subject to receipt of a report from the State Director, the delegatee may take all the listed actions on 1.5(b) and 1.5(e); 1.6(a) through (l) inclusive; subject to classification action, where necessary, by the State Director or his delegatee, take all actions on 1.9 et seq. as follows: Subject to approval of color-of-title or claim of right by the Regional Solicitor, the delegatee may take all actions on 1.9(c); subject to title approval of offered lands by the Regional Solicitor and subject to section 1.0(b)(4) where the selected lands' appraisal value exceeds $250,000 the delegatee may take all actions on 1.9(d); 1.9(e); 1.9(f); 1.9(h) through 1.9(n), inclusive; 1.9(p) through 1.9(s) inclusive; 1.9(x), and 1.9(y).

2. The authority delegated in paragraph 1 above may not be redelegated but may be exercised by any person authorized as an "acting" Division or Branch Chief.

3. This redelegation of authority supersedes the redelegation of August 12, 1969 (34 F.R. 13376).

C. J. YOUNG,
Acting State Director.

[FR Doc.71-13777 Filed 9-17-71;8:48 am]

CHIEF, DIVISION OF RESOURCES, CALIFORNIA ET AL.

Redelegation of Authority

SEPTEMBER 13, 1971.

1. Pursuant to section 1.1, Bureau Order No. 701 of July 23, 1964, as amended, the following authority is hereby delegated to the Chief, Division of Resources, Chief, Division of Technical Services, and Chief, Branch of Cadastral Survey, State Office, California, and to each California District Manager, within his area of jurisdiction in the State of California to become effective immediately upon publication in the FEDERAL REGISTER (9-18-71).

(a) Chief, Division of Resources, authority to take action for the State Director in matters listed in sections 1.5, 1.7, and 1.8 of Part I of Bureau Order No. 701, supra.

(b) Chief, Division of Technical Services, and Chief, Branch of Cadastral Survey, authority to take action for the State Director in matters listed in sections 1.4a(1) through 1.4a(3), inclusive, of Part I of Bureau Order No. 701, supra.

(c) Each California District Manager authority to take action for the State Director in matters listed in section 1.5(a) of Part I of Bureau Order No. 701, supra.

2. The authority delegated in paragraph 1 above may not be redelegated.

3. This redelegation of authority supersedes the redelegation of August 4, 1967 (32 F.R. 11647).

C. J. YOUNG,
Acting State Director.

[FR Doc.71-13778 Filed 9-17-71;8:48 am]

Office of the Secretary

E. E. WALL

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place

in my financial interests during the past 6 months:

(1) None.
(2) Standard Oil Company of California, 225 Purchased, Total Owned 3,355; Armco 200 sold; First National City Corp. 204 sold; Domtar 500 Sold; Westinghouse 100 Sold.
(3) None.
(4) None.

This statement is made as of August 21, 1971.

Dated: September 3, 1971.

ELLERTON E. WALL.

[FR Doc.71-13764 Filed 9-17-71;8:47 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. G-513]

HOWARD ALLAN CARRINGTON

Notice of Loan Application

SEPTEMBER 9, 1971.

Howard Allan Carrington, 871 Northeast First Place, Hialeah, FL 33010, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a new fiber glass vessel, about 36-foot in length, to engage in the fishery for shrimp.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above-entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Interior Building, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

WILLIAM M. TERRY,
Acting Director.

[FR Doc.71-13746 Filed 9-17-71;8:45 am]

[Docket No. S-559]

JOHN T. REISDORF

Notice of Loan Application

SEPTEMBER 9, 1971.

John T. Reisdorf, Post Office Box 601, Astoria, OR 97103, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used wood vessel, about 36-feet in length, to engage in the fishery for salmon, albacore, Dungeness crab, sablefish, and halibut.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Interior Building, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

WILLIAM M. TERRY,
Acting Director.

[FR Doc.71-13747 Filed 9-17-71;8:45 am]

[Docket No. G-514]

PERRY SCOTT ROBERTS

Notice of Loan Application

SEPTEMBER 9, 1971.

Perry Scott Roberts, 6321 Southwest 35th Place, Mira Mar, FL 33023, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a new fiber glass vessel, about 36-foot in length, to engage in the fishery for shrimp.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Interior Building, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

WILLIAM M. TERRY,
Acting Director.

[FR Doc.71-13748 Filed 9-17-71;8:45 am]

[Docket No. B-522]

ALFRED J. SCHEIBENPFLUG

Notice of Loan Application

SEPTEMBER 9, 1971.

Alfred J. Scheibenpflug, 75 Fairgrounds Road, West Kingston, RI 02829, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used wood vessel, about 68-foot in length, to engage in the fishery for fish for industrial uses, whiting, cod, butterfish, hake, flounders, scup, squid, lobsters, and mackerel.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedure (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Interior Building, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause economic hardship or injury.

WILLIAM M. TERRY,
Acting Director.

[FR Doc.71-13749 Filed 9-17-71;8:46 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

ENRICHED FLOUR DEVIATING FROM IDENTITY STANDARD

Temporary Permit for Market Testing; Correction

In the FEDERAL REGISTER of August 4, 1970 (35 F.R. 12423), a notice was published announcing the issuance of a temporary permit to the Agricultural Research Service, U.S. Department of Agriculture, Washington, D.C. 20250. The permit covered interstate marketing tests of enriched flour deviating from the standard of identity for enriched flour (21 CFR 15.10).

The product contains lysine hydrochloride in a quantity not less than 0.30 percent, an ingredient not presently provided for in the standards. Nutrients are added as specified in § 15.10(a) except that the specified quantities of thiamine, riboflavin, niacin, and iron (Fe) are increased approximately two-fold. The labels of the product declare by common name the ingredients used as well as the percentage of the minimum daily requirements for the vitamins and minerals present in the enriched flour.

The Food and Drug Administration had approved the temporary permit for a 2-year period, but the FEDERAL REGISTER document inadvertently gave a 1-year expiration date. Therefore, pursuant to § 10.5 (21 CFR 10.5) concerning temporary permits for market testing foods

deviating from the requirements of standards of identity promulgated pursuant to section 401 (21 U.S.C. 341) of the Federal Food, Drug, and Cosmetic Act, notice is given that this temporary permit expires July 24, 1972.

Dated: September 13, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-13809 Filed 9-17-71;8:51 am]

CIVIL AERONAUTICS BOARD

[Docket No. 22956]

CHICAGO-ACAPULCO NONSTOP SERVICE INVESTIGATION

Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in the above-entitled investigation is assigned to be held on October 6, 1971, at 10 a.m., local time, in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the Board.

Dated at Washington, D.C., September 14, 1971.

[SEAL] RALPH L. WISER,
Chief Examiner.

[FR Doc.71-13794 Filed 9-17-71;8:49 am]

[Docket No. 23224; Order 71-9-56]

EASTERN AIR LINES, INC.

Order Regarding Certificate of Public Convenience and Necessity

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 14th day of September 1971.

On March 22, 1971, Eastern Air Lines, Inc. (Eastern), filed an application to delete Waycross, Ga., from its certificate of public convenience and necessity for route 10. On May 6, 1971, Eastern filed a motion requesting expeditious action on its application. Eastern is presently temporarily suspended at Waycross subject to a substitute service agreement with Air South, Inc.[1]

In support of its motion, Eastern alleges, inter alia, that the history of certificated and substitute service at Waycross has demonstrated that the public demand is insufficient to support air service on an economical basis. Eastern states that frequent and convenient surface transportation is available between Waycross and its principal points of interest. Eastern further requests that a hearing be held on an expedited basis so that it can be completed prior to the expiration of the present substitute service arrangements with Air South.

An answer in opposition to Eastern's application, an answer to Eastern's motion for expeditious action and a petition to intervene were filed by the City of Waycross, Ga. (Waycross) alleging, inter alia, that the community is entitled to adequate, scheduled airline service and that Air South, Inc., has failed to provide the improved services contemplated by the substitute service agreement. Waycross concurs in the need for an evidentiary hearing and does not oppose the setting of an early date for a prehearing conference, so that the issues may be joined and simplified. It does request, however, that full and ample time be afforded it to obtain evidence and to prepare and present exhibits in support of its position.

Upon consideration of the pleadings and all the relevant facts, we have concluded that Eastern has made a sufficient showing to warrant a hearing on its deletion application. The matters raised by Waycross will be fully considered at the hearing. However, we do not believe that Eastern has made a sufficient showing to warrant expeditious treatment of its application.[2]

Accordingly, it is ordered, That:

1. The petition of the City of Waycross, Ga., for leave to intervene, be and it hereby is granted;

2. The application of Eastern Air Lines, Inc., in Docket 23224, be and it hereby is set for hearing and decision at a time and place to be hereafter designated; and

3. A copy of this order shall be served upon Eastern Air Lines, Inc.; Air South, Inc.; Mayor, City of Waycross; Governor, State of Georgia; Georgia Public Service Commission; Airport Manager, Waycross and Ware County Airport; and Postmaster General.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc.71-13795 Filed 9-17-71;8:49 am]

INTERAGENCY TEXTILE ADMINISTRATIVE COMMITTEE

CERTAIN COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN MAURITIUS

Entry or Withdrawal from Warehouse for Consumption

SEPTEMBER 15, 1971.

On August 25, 1971, the U.S. Government in furtherance of the objectives of, and under the terms of, the Long-Term Arrangement Regarding International Trade in Cotton Textiles, done at Geneva on February 9, 1962, and extended through September 30, 1973, requested the Government of Mauritius to enter into consultations concerning exports to the United States of cotton textile products in Category 39 produced or manufactured in Mauritius. In that request the U.S. Government stated its view that exports in this category from Mauritius should be restrained for the 12 month period beginning August 25, 1971, and extending through August 24, 1972.

Notice is hereby given that under the provisions of Article 3 and 6(c) of the Long-Term Arrangement, if no solution is mutually agreed upon by the two Governments within sixty (60) days of the date of delivery of the aforementioned note, entry for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 39 produced or manufactured in Mauritius and exported from Mauritius on and after the date of delivery of such note may be restrained.

STANLEY NEHMER,
Chairman, Interagency Textile Administrative Committee, and Deputy Assistant Secretary for Resources.

[FR Doc.71-13785 Filed 9-17-71;8:50 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report 561]

COMMON CARRIER SERVICES INFORMATION [1]

Domestic Public Radio Services Applications Accepted for Filing [2]

SEPTEMBER 13, 1971.

Pursuant to §§ 1.227(b)(3) and 21.30 (b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the list set forth below, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business 1 business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cutoff dates are set forth in the alternative—applications will be entitled to consideration with those listed below if filed by the end of the 60-day period, only if the Commission has not acted

[1] Order 69-6-56, dated June 12, 1969. The temporary suspension granted therein was to be effective for a period of 3 years unless sooner terminated by the Board.

[2] In view of the present crowded state of the Board's docket, it is possible that we will be unable to issue a decision in this proceeding prior to the termination of the substitute service agreement with Air South. The Board expects that Eastern will continue to fulfill its obligation to serve Waycross while the deletion case is pending, by providing service with its own equipment or by providing service through a Board-approved replacement arrangement.

[1] All applications listed below are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations and other requirements.

[2] The above alternative cutoff rules apply to those applications listed below as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio and Local Television Transmission Services (Part 21 of the rules).

upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

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

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

File number, applicant, call sign, and nature of application

1255-C2-P-(2)72—Mobilphone System (New), C.P. for a new two-way station to be located at 4081 Ross Clark Circle NW., Dothan, AL, to operate on 454.05 and 454.15 MHz.

1256-C2-P-72—Canaveral Communications (KFL876), C.P. to change the antenna system and relocate facilities operating on 152.18 MHz to State Highway No. 607, 1.7 miles southeast of Vero Beach, Fla.

1257-C2-P-72—Byrnes Message Bureau, Inc. (KEJ884), C.P. for additional facilities to operate on 152.03 MHz to be located at location No. 2: 15 Virginia Avenue, Poughkeepsie, NY.

1258-C2-P-(2)72—Northwestern Bell Telephone Co. (KAQ604), C.P. to change the antenna system, replace transmitters operating on 152.69 and 152.75 MHz and relocate facilities to 0.5 mile west of Comstock, Minn.

RURAL RADIO SERVICE

1254-C1-P-72—Sierra Communications (New), C.P. for a new rural subscriber station to be located at C. S. Bilbo 96 Ranch, 6 miles northeast of Separ, N. Mex., to operate on 158.49 MHz communicating with station KFL891, Black Peak, N. Mex.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIER)

1261-C1-P-72—The Chesapeake & Potomac Telephone Co. of Maryland (WAD23), C.P. to add frequencies 10,875 and 11,115 MHz toward Baltimore, Md. Station location: Gwynnbrook State Game Farm, 1.6 miles north of Owings Mills, Md.

1262-C1-P-72—The Chesapeake & Potomac Telephone Co. of Maryland (WAD24), C.P. to add frequencies 11,335 and 11,565 MHz toward Owings Mills, Md. Station location: 320 St. Paul Place, Baltimore, MD.

1263-C1-P-72—United Telephone Co. of Indiana, Inc. (KSJ39), C.P. to add frequency 6063.81 MHz toward Winamac, Ind., a new point of communication. Station location: Ohio and Railroad Streets, Monticello, IN.

1264-C1-P-72—United Telephone Co. of Indiana, Inc. (KSJ61), C.P. to add frequency 6345.50 MHz toward Monticello, Ind., a new point of communication. Station location: 114 North Monticello Street, Winamac, IN.

6445-C1-R-72—The Pacific Telephone & Telegraph Co. (KNZ36), Renewal of a Developmental License expiring October 28, 1971. Term: Oct. 28, 1971, to Oct. 28, 1972.

4049-C1-R-72—The Pacific Telephone & Telegraph Co. (KMB68), Renewal of a Developmental License expiring October 28, 1971. Term: Oct. 28, 1971, to Oct. 28, 1972.

1225-C1-P/ML-72—The Chesapeake & Potomac Telephone Co. of West Virginia (KQH73), C.P. and modification of license to add frequencies 2110–2130 MHz; 2160–2180 MHz; 3700–4200 MHz; 5925–6425 MHz; 10,700–11,700 MHz, in any temporary fixed location in the State of West Virginia.

INFORMATIVE: Pursuant to the requirements of the first report and order in Docket No. 18920, 29 FCC 2d 870, carries microwave systems employing frequency diversity will be concerting existing protection channels, above the newly specified ratios, to working channels. Such conversion, absent other changes, does not require modification of radio licenses. However, prior section 214 authorization must be obtained if the converted channels are to be utilized to provide additional interstate circuits beyond the number heretofore certificated by the Commission. Where frequencies used for protection purposes are to be relinquished, application (FCC Form 403) must be made to modify the outstanding licenses.

POINT-TO-POINT MICROWAVE RADIO SERVICE (NONTELEPHONE)

1282-C1-P-72—Western Tele-Communications, Inc. (New), C.P. for a new station at 340 West Main Street, Missoula, MT, at latitude 46°52'24" N., longitude 113°59'50" W. Frequency 6301.0 MHz on azimuth 03°04'.

1283-C1-P-72—Western Tele-Communications, Inc. (KSQ41), C.P. to add frequency 6019.3 MHz on azimuth 113°38'. Location: 1.5 miles north of Missoula, Mont., at latitude 47°02'24" N., longitude 113°59'03" W.

1284-C1-P-72—Western Tele-Communications, Inc. (KSQ40), C.P. to add frequency 11,485 MHz on azimuth 173°05'. Location: Garnet Knoll, 22 miles north-northwest of Deer Lodge, Mont., at latitude 46°42'10" N., longitude 112°52'53" W.

1285-C1-P-72—Western Tele-Communications, Inc. (KPP83), C.P. to add frequency 10,875 MHz on azimuth 94°21'. Location: Silverbow, 11.2 miles west of Butte, Mont., at latitude 46°01'30" N., longitude 112°45'48" W.

INFORMATIVE: Applicant proposes to provide an interconnecting channel between the KGVO-TV studio in Missoula, Mont., and the KTVM transmitting site upon "XL" Heights per request of its customer, KGVO-TV.

1286-C1-P-72—Western Tele-Communications, Inc. (New), C.P. for a new station 10 miles north of Missoula, Mont., at latitude 47°01'05" N., longitude 114°00'41" W. Frequency 6086.0 MHz on azimuth 346°35'.

1287-C1-P-72—Western Tele-Communications, Inc. (KSV37), C.P. to add frequency 6338.1 MHz on azimuth 166°23'. Location: Blacktail Peak, 13 miles south of Kalispell, Mont., at latitude 48°00'41" N., longitude 114°21'46" W.

INFORMATIVE: Applicant proposes to provide an interconnecting loop, for programing purposes, between the KGVO-TV transmitter building and the KCFW transmitter building per request of its customer, KGVO-TV, Missoula, Mont.

1288-C1-P-72—Mountain Microwave Corp. (KZI51), C.P. to add frequency 6004.5 MHz on azimuth 268°18'. Location: 6 miles north of Reliance, S. Dak., at latitude 43°57'55" N., longitude 99°36'11" W.

1289-C1-P-72—Mountain Microwave Corp. (KZA55), C.P. to add frequency 6256.5 MHz on azimuth 210°55'. Location: 4 miles northeast of Murdo, S. Dak., at latitude 43°56'14" N., longitude 100°40'45" W.

1290-C1-P-72—Mountain Microwave Corp. (KZA64), C.P. to add frequency 6005.0 MHz on azimuth 112°02'. Location: 7.5 miles northeast of Vetal, S. Dak., at latitude 43°15'14" N., longitude 101°14'17" W.

INFORMATIVE: Applicant proposes to provide the television signal of station WTCN-TV of Minneapolis, Minn., to Midcontinental Broadcasting Co. in Valentine, Nebr. Applicant requests waiver of sec. 21.701 (i) of the Commission's Rules.

1291-C1-P-72—Mountain Microwave Corp. (KZI51), C.P. to power split frequency 6004.5 MHz on azimuth 197°19'. Location: Medicine Butte, 6 miles north of Reliance, S. Dak., at latitude 43°57'55" N., longitude 99°36'11" W.

INFORMATIVE: Applicant proposes to provide the television signal of WTCN-TV of Minneapolis, Minn., to Mid-Continental Broadcasting Co. in Winner, S. Dak.

1292-C1-P-72—American Microwave & Communications, Inc. (KYO50), C.P. to change frequency from 6226.9 to 6182.4 MHz on azimuths 03°49' and 296°03'. Location: West of Harrison, Mich., at latitude 44°01'46" N., longitude 84°51'01" W.

The following applicants propose to establish omnidirectional facilities for the provision of common carrier "Subscriber-Programed" television service.

4260-C1-P-72—Microband Corp. of America (New), C.P. for a new station to be located 23200 Chagrin Boulevard, Beachwood, OH. Frequencies: 2152.325 MHz (visual) 2150.20 MHz (aural) toward various points of the system and 2158.50 MHz (visual) 2154.00 MHz (aural) toward various points of the system.

[FR Doc.71-13723 Filed 9-17-71;8:45 am]

[Canadian List No. 282]

CANADIAN STANDARD BROADCAST STATIONS

Notification List

AUGUST 27, 1971.

List of new stations, proposed changes in existing stations, deletions, and corrections in assignments of Canadian standard broadcast stations modifying the assignments of Canadian broadcast stations contained in the Appendix to the Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting January 30, 1941.

Call letters	Location	Power kw	Antenna	Schedule	Class	Antenna height (feet)	Ground system		Proposed date of commencement of operation
							Number of radials	Length (feet)	
		1230 kHz							
CFGN (now in operation)	Port aux Basques, Newfoundland, N. 47° 35' 08", W. 59° 07' 22".	0.25	ND-182	U	IV	146.5	120	320	
		1240 kHz							
CKBX (now in operation)	100 Mile House, British Columbia, N. 51° 40' 11", W. 121° 17' 22".	0.25	ND-180	U	IV	150	120	318	
		1310 kHz							
New	St. Paul, Alberta, N. 53° 53' 29", W. 111° 30' 00".	10	DA-2	U	III				E.I.O. 8.27.72.
		1310 kHz							
New (delete assignment immediately).	Westlock, Alberta, N. 54° 08' 22", W. 113° 52' 43".	5	DA-N, ND-D-193	U	III				
		1340 kHz							
CFLW (assignment of call letters).	Wabush, Labrador, Newfoundland, N. 52° 53' 51", W. 66° 52' 24".	0.25	ND-180	U	IV	122.5	120	250-354	
		1440 kHz							
CJOI (assignment of call letters)	Wetaskiwin, Alberta, N. 52° 57' 30", W. 113° 27' 00".	1	DA-1	U	III				
		1440 kHz							
CKPM (increase in power and change of site).	Ottawa, Ontario, N. 45° 16' 59", W. 75° 44' 51".	50	DA-1	U	III				
		1470 kHz							
CFOX (increase in power and change of site).	Pointe Claire, Province of Quebec, N. 45° 20' 05", W. 73° 35' 59".	50	*DA-1*	U	III				
		1490 kHz							
CFRC (*correction to antenna system*).	Kingston, Ontario, N. 44° 13' 37", W. 76° 29' 43".	0.1	ND-177	U	IV	(1)			

1 T antenna, single wire, flat top, 130 ft. long, 110 ft. above ground.

[SEAL]

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.71-13724 Filed 9-17-71;8:45 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*
01803	Texas City Refining, Inc.: William J. Fields. V. A. Fogg.
01879	"San Francesco" Societa di Navigazione, S.P.A.: San Francesco.
02293	China Marine Investment Co., Ltd.: Singapore Trader.
02294	Bordaenea Trading & Shipping Co., Inc.: Bordaenea.
02358	A/S Ganger Rolf-A/S Bonheur-A/S Borga-Den Norske Middelhavslinje A/S-A/S Jelolinjen: Botticelli.
02428	The Kinsman Marine Transit Co.: Silver Bay.
02742	Texas Gulf Sulphur Co.: TGS No. 1. TGS No. 2. TGS No. 3. TGS No. 4. TGS No. 5. TGS No. 6. TGS No. 7. TGS No. 14. TGS No. 15. Atlantic Sulphur I. BC11—TGS No. 20. BC12—TGS No. 21.
02495	Tug Management Corp.: Chris Sheridan. Peggy Sheridan. D. T. Sheridan.
02961	Kobe Kisen Kabushiki Kaisha: Toyota Maru No. 17.
03714	Pennzoil United, Inc.: Duval 1. Duval 2. Duval 3. Elk No. 2.
03276	Universe Tankships, Inc.: Dea Maris. Gem Star. Ulysses.
03915	Mobil Oil Corp.: MCN Derrick Barge No. 2. MCN Oil Barge No. 5.
04076	Reliable Fuel Supply Co., Inc.: Mary A. Whalen. Reliable. John J. Tabeling.
04263	Waywiser Navigation Corp., Ltd.: Juliana.
04454	Satsumaru Kaiun Kabushiki Kaisha: Satsu Maru No. 38. Satsu Maru No. 17.
04511	Showa Gyogyo Kabushiki Kaisha: Showa Maru No. 21.
04695	Partenreederei M/V "Boitwardersand": Boitwardersand.
04873	Compania Espanola de Petroleos, S.A.: Hesperides.
04944	Mareante Compania Naviera S.A.: Agios Nikolas.
04945	Agia Irini Shipping Co., Ltd.: Nikolas S.
04946	Evimeria Compania Naviera S.A.: Agios Giorgis.
04947	Compania Naviera Aisikolas: Adelfotis.
05005	Harisel Shipping Co. S.A.: Haris II.
05011	Slater Boat Service, Inc.: Rio Haina.
05098	Esso Tankers, Inc.: Esso Gloucester.
05142	Sand Products Corp.: Aquarama.
05207	Permapimar S.P.A. di Navigazione: Capitano Vito.
05235	Gulfcoast Transit Co.: Kathrine Clewis. Sarah Hays. Wanda Wheelock. Louise Kirkpatrick. Barbara Vaught. Thelma Collins. Pearle Jahn. Deloris Rogers.

Certificate No.	Owner/operator and vessels
05254	Campo Tankers S.A.: S. S. Euros.
05366	Mr. Kinichi Sakagami: Koyo Maru No. 36.
05376	Stellman Transportation Co.: JTS 400. JTS 500. JTS 700. JTS 800. JTS 900. JTS 1000. D & D 1. JTS 100.
05395	Partenreederei M/S "Bellatrix": Bellatrix.
05396	Partenreederei M/S "Beteigeuze": Beteigeuze.
05544	Searoad (Bahamas), Ltd.: M/V Sealane.
05647	Mythikos Ploutos Shipping Co. S.A.: Capetan Giorgis.
05673	Palanka Shipping Corp., Monrovia: Scapwind.
05674	Alexandra Compania Naviera S.A. Panama: Scaphill.
05683	Pfizer, Inc.: Josiah Bartlett.
M-05688	Southern Scrap Material Co., Ltd.: Vessels held for purposes of construction, scrapping or sale, but not including vessels over 8,000 gross tons.
05740	Fina France: Fina Belgique. Fina Scandinav Fina France. Fina Angola.
M-05750	National Metal & Steel Corp.: Vessels held for purposes of construction, scrapping or sale, but not including vessels over 10,000 gross tons.
05759	Victoria Shipping, Ltd.: M/V Naya.
05776	Erich Hanisch: Seeadler.
05848	Navimex S.A.: Rio Jamapa.
05850	Partenreederei Kuhl M/S Ravenna/Polarstern: Polarstern.
05851	Partenreederei Kuhl M/S Ravenna/Polarlight: Polarlight.
05855	Lyra Shipping Co., Ltd.: Galaxy Faith.
05886	Hughes Bros., Inc.: Hughes No. 18. Hughes No. 135. Hughes No. 102. Hughes No. 101. Hughes No. 82. Hughes No. 140. Hughes No. 103. Hughes No. 36. Hughes No. 111. Hughes No. 39. Hughes No. 143. Hughes No. 142. Hughes No. 115. Hughes No. 144. Hughes No. 152. Hughes No. 8. Hughes No. 137. Hughes No. 136. Seascow No. 1401. Hughes No. 251. Hughes No. 287. Seascow No. 48. Hughes No. 286. Hughes No. 259. Hughes No. 292. Hughes No. 290. Hughes No. 365. Hughes No. 200.
05992	Fujitake Gyogyo Kabushiki Kaisha: Seisho Maru No. 12.
05994	Taiyo Sangyo Kabushiki Kaisha: No. 1 Taisan Maru.
06016	Cyprice & Co., Ltd.: Monruey. Mondia Two. Mononyx. S.T.S. Monopal.
06038	Finska Angfartygs Aktiebolaget Suomen Hoyrylaiva Osakeyhtio: Inha.
06072	Demetra Maritime Corp., Monrovia: Vroulidia.
06090	Baltimore Gas & Electric Co.: G&E 0-5. G&E 0-6. G&E 0-7. G&E 0-8. G&E 0-9. G&E 0-10. G&E 0-11.
06106	Greenville Gravel Co.: 501.
06109	Agami Shipping Co., Inc.: Minoan Chief.
06111	Franga Compania Naviera S.A. Panama: Eleni E. F.
06116	Containerschiffsreederei H. W. Janssen G.m.b.H. & Co. KG M/S "Osterfehn": Osterfehn.
06151	N/V Scheepvaartbedrijf "Poseidon": Bierum.
06161	Intermar Services Co. S.A. Panama: Maria B.
06168	Ayers Materials Co., Inc.: Spud Barge Ayers 208.
06173	Alaska Barite Co.: S/B Boliver S1.
06176	Melisitta Compania Naviera S.A.: Melisitta.
06179	Equimar Maritima, S.A.: Manchester Rapido.
M-06180	Litton Systems Inc.: For Ingalls nuclear vessels held for purposes of construction, scrapping or sale, but not including vessels over 20,750 gross tons.
06183	Lefka Naviera, S.A.: Theokeetor.
06191	Neptunea Astroncamino S.A.: Alexandros B.
06193	Tugs and Salvage, Inc.: H.C. 105.
06201	Litton Systems, Inc.: For Litton ship systems steel sectioned launch pontoon.
06204	Continental Explosives, Ltd.: Sigrid.
06205	Elmini Liner, Inc.: Mini Liner.
06206	Elmini Lens, Inc.: Mini Lens.
06207	Elmini Log, Inc.: Mini Log.
06213	Second Marine Corp.: TGS 10. TGS 11. TGS 12. TGS 13.
06214	Houston Barge Leasing, Inc.: ABL 405.
06216	Thivai Shipping Co. S.A.: Dimitris.
06221	Seafarers Co., Ltd.: Zografnia Y.
06222	Compania de Navegacion Tubal S.A.: Volos.
06276	Transportes Del Este Navegacion S.A.: Cepheus.
06284	Hongkong Borneo Shipping Co., Ltd.: Mui Kim.
06285	Hanafusa Kisen K.K.: Jinyo Maru.
06286	Shell Sempaku K.K.: Choja Maru. Chihiro Maru.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-13774 Filed 9-17-71;8:48 am]

FEDERAL POWER COMMISSION

[Docket No. E-7662]

CENTRAL ILLINOIS PUBLIC SERVICE CO.

Notice of Application

SEPTEMBER 10, 1971.

Take notice that Central Illinois Public Service Company (applicant), on September 7, 1971, filed an application pursuant to section 204 of the Federal Power Act seeking authority to issue $50 million aggregate principal amount of unsecured promissory notes and commercial paper.

Applicant is incorporated under the laws of the State of Illinois with its principal place of business at Springfield, Ill. Applicant is a public utility engaged in generating, purchasing, transmitting, distributing, and selling electric energy in portions of central and southern Illinois serving approximately 269,000 customers.

Applicant proposes to issue promissory notes to commercial banks and commercial paper to commercial paper dealers. All promissory notes shall be dated the date of such borrowing and shall mature on the date not more than 12 months from the date thereof, and shall bear interest not to exceed the prime rate of interest prevailing at such bank on the date each such borrowing is made.

Notes issued in the form of commercial paper shall be dated the date of its issuance and shall bear maturities not to exceed 9 months from its date of issuance, and shall bear interest at a rate not to exceed the prevailing interest rate for prime commercial paper at the time of its issuance.

The applicant states that it is a holding company under the Public Utility Holding Company Act of 1935, but is presently exempt from all of the provisions of that act, except section 9(a)(2) thereof by virtue of an exemption statement filed by the company with said Commission pursuant to Rule 2 prescribed under that act.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 6, 1971, file with the Federal Power Commission, Washington, D.C. 20426,

petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-13752 Filed 9-17-71;8:46 am]

[Docket No. CP72-50]

GEORGIA-PACIFIC CORP.

Notice of Application

SEPTEMBER 10, 1971.

Take notice that on August 30, 1971, Georgia-Pacific Corp. (applicant), 900 Southwest Fifth Avenue, Portland, OR 97204, filed in Docket No. CP72-50 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas pipeline, measuring and regulating facilities to be located in Morehouse Parish, La., and Ashley, County, Ark., 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 purchases 40,000 Mcf of natural gas per day on a firm basis for use in its Crossett, Ark., plants from Mississippi River Transmission Corp. (Mississippi), under the provisions of a contract which expires December 31, 1971. Applicant states that it has been unable to obtain a firm source of natural gas supply as a replacement for this contract and that Mississippi offers future service only on a totally interruptible basis. To provide itself with a source of natural gas to offset or supplement the interruptible supplies to be obtained from Mississippi, applicant proposes to construct and operate approximately 19.5 miles of 8⅝-inch pipeline together with measuring and regulating facilities, and approximately 5 miles of 3-inch gathering pipeline.

Applicant states that these facilities will be employed to provide natural gas supplies from reserves recently discovered on its property in Morehouse Parish. These reserves will be produced solely for applicant's use and only when service by Mississippi is curtailed. The estimated cost of these facilities is $600,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 4, 1971, file with the Federal Power Commission, Washington, D.C. 20426, 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.71-13753 Filed 9-17-71;8:46 am]

[Docket No. E-7663]

GULF STATES UTILITIES CO.

Notice of Application

SEPTEMBER 10, 1971.

Take notice that on September 7, 1971, Gulf States Utilities Co. (applicant), filed an application seeking an order pursuant to section 204 of the Federal Power Act authorizing the issuance of $35 million principal amount of First Mortgage Bonds and 2 million additional shares of Common Stock.

Applicant is incorporated under the laws of Texas with its principal business office at Beaumont, Tex., and is engaged in the electric utility business in portions of Louisiana and Texas. Natural gas is purchased at wholesale and distributed at retail in the city of Baton Rouge and vicinity.

The applicant proposes to sell the new securities at competitive bidding in accordance with the Commission's regulations under the Federal Power Act. The applicant proposes to invite bids on or about November 9, 1971, for the purchase of the new securities.

The proceeds from the sale of the new securities will be used to pay off all of the company's outstanding commercial paper and short-term bank loans and any balance, after payment of the loans and commercial paper, will be added to the general funds of the company to be used, among other things, to provide part of the funds to carry forward the company's construction program.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 30, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10).

All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-13754 Filed 9-17-71;8:46 am]

NATIONAL GAS SURVEY EXECUTIVE ADVISORY COMMITTEE

Order Designating an Additional Member

SEPTEMBER 9, 1971.

The Federal Power Commission by order issued April 6, 1971 established an Executive Advisory Committee of the National Gas Survey.

1. *Membership.* An additional member to the Executive Advisory Committee, as selected by the Chairman of the Commission with the approval of the Commission, is as follows:

Hon. Edward E. David, Jr., Director, Office of Science and Technology.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.71-13755 Filed 9-17-71;8:46 am]

[Dockets Nos. RI71-970, CI71-788]

WARREN PETROLEUM CORP., AND SUN OIL CO.

Order Setting Date for Formal Hearing, Consolidating Proceedings, Prescribing Procedures, Permitting Intervention and Directing the Filing of an Application

SEPTEMBER 9, 1971.

Warren Petroleum Corp., Complainant, v. Sun Oil Co., Respondent.

On April 14, 1971, Warren Petroleum Corp. (Warren) filed in Docket No. RI 71-970 a complaint against Sun Oil Co. (Sun). Warren requests that the Commission enter an order directing Sun to continue gas deliveries to Warren until Sun has applied for and secured approval to abandon such deliveries pursuant to the requirements of section 7(b) of the Natural Gas Act.

On April 28, 1971, Sun filed in Docket No. CI71-788 an application pursuant to

section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity to sell and deliver natural gas to United Gas Pipe Line Co. (United). Notice of the application was issued on July 14, 1971, and published in the FEDERAL REGISTER on July 26, 1971, 36 F.R. 12188.

Sun presently sells casinghead gas pursuant to two percentage type contracts, dated October 1, 1948, and May 2, 1961, to the co-owners of the Gladewater plant located in Gregg County, Tex., where it is processed. Warren operates the Gladewater plant and owns 79.260 percent thereof. The residue gas remaining after liquids extraction and plant and lease fuel is sold by the plant co-owners to United pursuant to a contract dated September 25, 1970.[1]

Warren states in its complaint in Docket No. RI71-970 that on March 26, 1971, Sun gave notices of termination, effective May 1, 1971, of its aforementioned percentaged type contracts, limited to certain leases described in the complaint. Warren does not contest the sufficiency of the termination notices. Warren states that it called Sun's attention to §§ 154.91(e) and 157.30 of the Commission's regulations and the provisions of section 7(b) of the Natural Gas Act and requested Sun to advise whether it intended to file an abandonment application with the Commission as required by the Act and regulations thereunder. Warren states that Sun has not responded to its request.

Sun, in its answer to Warren's complaint, states that it has applied in Docket No. CI71-788 for a certificate of public convenience and necessity to authorize the sale and delivery of residue gas to United pursuant to a contract between the parties dated April 16, 1971. Sun states that it intends to deliver to Cities Service Gas Co. (Cities) the gas now being delivered to the co-owners of the Gladewater plant. After processing the gas, Cities would return the residue to Sun. Sun would then sell to United at the same price substantially equivalent volumes of natural gas as Warren currently sells to United. Sun submits that in this case an application to abandon service to Warren is neither necessary nor appropriate, and, therefore, Warren's complaint should be dismissed.

Contracts for the sale of natural gas as herein described are percentage type contracts subject to the jurisdiction of the Commission. Section 154.91(e) of the Commission's regulations pertains to sales under percentage type contracts and provides, inter alia, that

> [the] producer is fully subject to applicable provisions of the Natural Gas Act, including sections 5 and 7(b).

Although Sun alleges that abandonment authorization is neither necessary nor appropriate in this case since United eventually ends up with the gas, the fact remains that the jurisdictional sale currently made by Sun to Warren is proposed to be terminated. Under section 7(b) of the Natural Gas Act and § 157.30 of the Commission's regulations thereunder, permission and approval of the Commission must be obtained prior to abandonment by an independent producer of its jurisdictional service. Accordingly, it is appropriate to require Sun to file an application to abandon its sales to Warren, without prejudice to its position on this issue, so that a full evidentiary record may be developed and considered at one time in these proceedings.

On June 17, 1971, Warren filed a petition to intervene in the proceedings in Docket No. CI71-788. Warren reiterates its position on abandonment and states that it has an interest in the proceeding which no other party can adequately represent.

Common questions of law and fact are presented in the proceedings in Dockets Nos. RI71-970 and CI71-788. In order to provide for the expeditious disposition of these proceedings, it is appropriate to consolidate the same. The filing by Sun of an application to abandon will present questions related to the questions to be considered in these proceedings. Consequently, upon filing of said application, that proceeding will be consolidated with the proceedings herein.

The Commission finds:

(1) It is desirable and in the public interest to enter upon a hearing concerning the matters raised in Warren's complaint in Docket No. RI71-970 and Sun's application in Docket No. CI71-788 and that those proceedings be consolidated for purposes of hearing and decision.

(2) It is desirable and in the public interest to allow Warren to intervene in the proceeding in Docket No. CI71-788.

(3) Good cause exists to require Sun to file an application pursuant to Section 7(b) of the Natural Gas Act to abandon its sales of natural gas to the coowners of the Gladewater plant.

(4) It is desirable and in the public interest to expedite these proceedings as hereinafter ordered.

The Commission orders:

(A) The proceedings in Docket Nos. RI71-970 and CI71-788 are hereby consolidated for purposes of hearing and decision.

(B) On or before September 15, 1971, without prejudice to the final decision herein, Sun Oil Co. shall file an application pursuant to section 7(b) of the Natural Gas Act for permission to abandon its sales of gas to the coowners of the Gladewater plant, as hereinbefore described.

(C) Warren Petroleum Corp. is hereby permitted to intervene in the proceedings in Docket No. CI71-788 subject to the Rules and Regulations of the Commission: *Provided, however,* That the participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition for leave to intervene; and *Provided, further,* That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in these proceedings.

(D) Pursuant to sections 7 and 16 of the Natural Gas Act, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act, a public hearing shall be convened in these proceedings, in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426, on October 26, 1971, at 10 a.m. e.d.s.t., concerning the issues hereinbefore discussed as well as other matters raised by the application consolidated for hearing in these proceedings. The Chief Examiner shall designate an appropriate officer of the Commission to preside at this hearing pursuant to the Commission's rules of practice and procedure.

(E) On or before September 30, 1971, Sun Oil Co. shall file with the Commission its direct testimony and evidence in support of its application filed in Docket No. CI71-788 as well as its application for abandonment which is required to be filed by ordering paragraph (B) herein and on or before October 13, 1971, Warren Petroleum Corp. shall file with the Commission its direct testimony and evidence in support of its position in these proceedings. All direct testimony and evidence filed herein shall be served upon the Presiding Examiner, the Commission's staff, and all other parties.

By the Commission.

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

[FR Doc.71-13751 Filed 9-17-71;8:46 am]

[1] Warren commenced deliveries to United on Sept. 25, 1970, by invoking § 157.29 of the Commission's regulations. Warren secured temporary authority to continue deliveries by order dated Nov. 20, 1970. On Dec. 21, 1970, the Commission issued a permanent certificate to Warren in Docket No. CI71-294 at a rate of 15.0 cents per Mcf. Warren has since applied for and is collecting 19.0 cents per Mcf subject to refund in Docket No. RI71-669.

FEDERAL RESERVE SYSTEM

AMERICAN HOLDING CORPORATION OF NEW JERSEY

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)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)), by American Holding Co. of New Jersey, Princeton, N.J., for prior approval by the Board of Governors of action whereby applicant would become a bank holding company through the acquisition of 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to American National Bank and Trust, Montclair, N.J., and 100 percent of the voting shares of Princeton Bank and Trust Co., Princeton, N.J.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3

whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of New York.

Board of Governors of the Federal Reserve System, September 14, 1971.

[SEAL] TYNAN SMITH, *Secretary.*

[FR Doc.71-13757 Filed 9-17-71;8:46 am]

FIRST BANCSHARES OF FLORIDA, INC.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by First Bancshares of Florida, Inc., which is a bank holding company located in Boca Raton, Fla., for prior approval by the Board of Governors of the acquisition by applicant of 80 percent or more of the voting shares of Jensen Beach Bank, Jensen Beach, Fla.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States; or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Atlanta.

Board of Governors of the Federal Reserve System, September 14, 1971.

[SEAL] TYNAN SMITH, *Secretary.*

[FR Doc.71-13758 Filed 9-17-71;8:46 am]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs.; Temporary Reg. F-119]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in a telecommunications service rate proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4)) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Ohio Public Utilities Commission in a proceeding involving a rate increase for services provided by the Ohio Bell Telephone Co.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and, further, shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: September 10, 1971.

ROBERT L. KUNZIG, *Administrator of General Services.*

[FR Doc.71-13759 Filed 9-17-71;8:46 am]

[Federal Property Management Regs.; Temporary Reg. D-31]

SECRETARY OF AGRICULTURE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Agriculture to perform all functions in connection with the leasing of certain property proposed to be constructed for the exclusive purposes of the Agricultural Research Service on the University of Delaware campus in Newark, Del.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended, authority is hereby delegated to the Secretary of Agriculture to perform all functions in connection with leasing 5 acres of land and a 9,000-sq.-ft. building to be constructed thereon, located on the University of Delaware campus in Newark, Del., for terms not in excess of 1 year.

b. The Secretary of Agriculture may redelegate this authority to any officer, official, or employee of the Department of Agriculture.

c. This authority shall be exercised in accordance with the limitations and requirements of the Act, and the policies, procedures, and controls prescribed by the General Services Administration.

Dated: September 14, 1971.

ROBERT L. KUNZIG, *Administrator of General Services.*

[F.R. Doc.71-13789 Filed 9-17-71;8:50 am]

[Federal Property Management Regs.; Temporary Reg. E-18]

DRAPERIES

Use Standards

To: Heads of Federal agencies.

1. *Purpose.* This regulation prescribes use standards for draperies.

2. *Effective date.* This regulation is effective upon publication in the FEDERAL REGISTER (9-18-71).

3. *Expiration date.* This regulation expires January 31, 1972, unless sooner revised or superseded. Prior to the expiration date, this regulation will be codified, as appropriate, in the permanent regulations of GSA appearing in Title 41, CFR, Public Contracts and Property Management.

4. *Applicability.* The provisions of this regulation apply to all executive agencies. Other agencies are encouraged to adhere to this regulation so that maximum benefits can be realized by the Government.

5. *Background.* FPMR 101-25.3 prescribes minimum use standards for certain Government-owned personal property. Use standards for draperies are presently confined to furnishings to be used with executive type furniture, as authorized in FPMR 101-25.302. It has been determined that draperies for use under other circumstances could result in more efficiency and improve work effectiveness.

6. *Use standards for draperies.* Draperies are authorized for use where it can be justified over other types of window coverings on the basis of cost, insulation, acoustical control, or to maintain an environment commensurate with the purpose for which the space is allocated,

as when executive or unitized office furniture is authorized in FPMR 101–25.302–1. Determining whether use of draperies is justified is a responsibility of both the agency occupying and the agency operating or managing the building or the space involved.

7. *Agency comments.* Comments concerning the effect or impact of this regulation on agency operations or programs should be submitted to the General Services Administration (FF), Washington, D.C. 20406, no later than November 30, 1971, for consideration and possible incorporation into the permanent regulation.

Dated: September 14, 1971.

ROBERT L. KUNZIG,
Administrator of General Services.

[FR Doc.71–13790 Filed 9–17–71;8:50 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1–4692]

FAS INTERNATIONAL, INC.

Order Suspending Trading

SEPTEMBER 13, 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)(14) 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 14, 1971, through September 23, 1971.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.71–13780 Filed 9–17–71;8:48 am]

[811–1801]

WORLCO GROWTH FUND, INC.

Notice of Proposal To Terminate Registration

SEPTEMBER 13, 1971.

Notice is hereby given that the Commission proposes, pursuant to section 8(f) of the Investment Company Act of 1940 (Act), to declare by order upon its own motion that Worlco Growth Fund, Inc. (Fund), 550 West DeKalb Pike, King of Prussia, Pa. 19406, a Delaware corporation registered under the Act as an open-end, non-diversified management investment company, has ceased to be an investment company.

The Fund registered under the Act on January 24, 1969. Information available to the Commission indicates that the Fund has only several shareholders, that it has no assets, that the principal owners of the Fund do not believe that development of the Fund would be practicable in the light of present market conditions and competitive conditions in the industry. The Commission's files also show that the Fund's registration statement under the Securities Act of 1933 was withdrawn on August 20, 1971.

Section 3(c)(1) of the Act excepts from the definition of an investment company any issuer whose outstanding securities are beneficially owned by not more than 100 persons, and which is not making and does not presently propose to make a public offering of its securities.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, on its own motion, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and that upon the effectiveness of such order, which may be issued upon the Commission's own motion where appropriate, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than October 7, 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 reasons for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communications 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 Fund 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 matter may be issued by the Commission upon the basis of the information stated in this notice, unless an order for hearing thereon shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.71–13781 Filed 9–17–71;8:48 am]

TARIFF COMMISSION

MARBLE AND TRAVERTINE PRODUCTS

Reports to President

Vote of Commission divided in investigation under the Trade Expansion Act of 1962.

The U.S. Tariff Commission today reported to the President the results of its investigation of the effect of imports of certain marble and travertine products on the domestic industry producing like or directly competitive products, which it had made under section 301(b)(1) of the Trade Expansion Act of 1962. The investigation had been requested by the National Association of Marble Producers on March 11, 1971.

The vote of the Commission was equally divided. Chairman Bedell and Commissioner Moore found in the affirmative except as noted below. Commissioners Leonard and Young found in the negative with regard to all products under investigation. Vice Chairman Parker and Commissioner Sutton did not participate in the investigation (TEA–I–20).

The two Commissioners finding in the affirmative found that marble slabs (item 514.65), manufactured marble suitable for use as monumental, paving, or building stone (part of item 514.81), and travertine articles (item 515.24) are, as a result in major part of concessions granted under trade agreements, being imported in such increased quantities as to threaten to cause serious injury to the domestic industry producing like or directly competitive articles. They further found that, in order to prevent serious injury, the rates of duty on the types of articles described above and provided for in the three TSUS items must be increased as follows: Item 514.65 to 22.5 percent, and items 514.81 and 515.24 to the statutory rate of 50 percent ad valorem. They believe that an adjustment assistance program is justified for individual firms and workers of the threatened industry as provided under the Trade Expansion Act.

Chairman Bedell and Commissioner Moore voted in the negative on the manufactured marble provided for in item 514.81 and not suitable for use as monumental, paving, or building stone. Such imported manufactured marble consists of vases, statuettes, ashtrays, book ends, and many other so-called novelty articles.

Under the law, the President may consider the findings of either group of Commissioners as the findings of the Commission.

Copies of the Commission's report (TC Publication 420), which contains statements of the reasons for the Commissioners' findings, are available upon request as long as the limited supply lasts. Requests should be addressed to the Secretary, U.S. Tariff Commission, 8th and E Streets NW., Washington, DC 20436.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.71–13823 Filed 9–17–71;8:51 am]

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF HEARINGS

SEPTEMBER 15, 1971.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 119441 Sub 25, Baker Hi-Way Express, Inc., assigned November 8, 1971, in Room 107, State Office Building, 65 South Front Street, Columbus, OH.

MC 2567 Sub 14, Belbey Transfer Co., now assigned October 5, 1971, at New York, hearing cancelled and application dismissed.

FD 26773, John F. Nash and Robert C. Haldeman, trustees of the property of the Lehigh Valley Railroad Co., Debtor—Operation of freight service in the State of Pennsylvania—Serving the Area Between Easton-Allentown and Bethlehem on the east and Wilkes-Barre-Scranton on the west and FD 26781, Reading Co.—Operation—Between Allentown, Lehigh County, Pa. and Phillipsburg, Warren County, N.J., assigned October 4, 1971, in Room 308, Lehigh County Courthouse, 455 Hamilton Street, Allentown, PA.

I & S 8646, Livestock, Western, Southwestern & Pacific Coast States, now assigned September 16, 1971, at Washington, D.C., cancelled and transferred to Modified Procedure.

MC 119777 Sub 207, Ligon Specialized Haulers, Inc., now assigned September 21, 1971, at Louisville, Ky., postponed indefinitely.

MC 117940 Sub 44, Nationwide Carriers, Inc., assigned October 15, 1971, in Room 174, New Federal Office Building, 316 North Robert Street, St. Paul, MN.

MC 135391, Wilderness Express, Inc., assigned October 14, 1971, in Room 174, New Federal Office Building, 316 North Robert Street, St. Paul, MN.

Investigation and Suspension Docket No. 8645, Charges at New York Harbor, Penn Central Transportation Co., continued to September 22, 1971, in Courtroom No. 2, Fourth Floor, U.S. Customs Court, 26 Federal Plaza, New York, NY.

MC 28551 Sub 1, General Cartage Co., assigned October 26, 1971, in Room 404, Hill Farms State Office Building, 4802 Sheboygan Avenue, Madison, WI.

I & S M-24960, Increased Rates and Charges, July 1971, New England Territory, now assigned September 20, 1971, at Washington, D.C., cancelled. The rates are being cancelled.

MC 117574 Sub 197, Daily Express, Inc., now assigned September 22, 1971, at Washington, D.C., cancelled and application dismissed.

MC 61592 Sub 199, Jenkins Truck Line, Inc., assigned September 21, 1971, at Washington, D.C., postponed indefinitely.

MC 10761 Sub 247, Transamerican Freight Lines, Inc., now assigned September 18, 1971, at Chicago, Ill., postponed indefinitely.

MC 110144 Sub 11, Jack C. Robinson, doing business as Robinson Freight Lines, now assigned hearing October 26, 1971, at the Holiday Inn, Downtown, Chapman Highway, Knoxville, TN.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-13810 Filed 9-17-71;8:48 am]

[Docket No. 35469]

CERTAIN RAIL CARRIERS AT CHICAGO, ILL. AND ST. LOUIS, MO.

Investigation as to Adequacy and Reasonableness of Loading, Unloading and Handling Charges for Freight

At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C. on the 17th day of August 1971.

It appearing, that in Freight Forwarding Investigation, 229 I.C.C. 201, 237 (1938), the Commission found that the rail carrier practice of loading and unloading carload freight of certain shippers at charges which were substantially less than the cost for performing such services, had the effect of granting unlawful concessions to such shippers, and of reducing the transportation charges paid by such shippers below the published tariff rates, and resulted in unjust discrimination, in violation of section 2 of the act, made and gave undue and unreasonable preferences and advantages in violation of section 3 of the act, and departed from the published tariff rates, in violation of section 6 of the Interstate Commerce Act: this finding was modified upon further hearing, 243 I.C.C. 411, 421–422 (1941) in which respondents were admonished to examine their charges to the extent that such charges were found by the Commission to be unreasonably low, with a view to revising at an early date their tariff charges so that they would more adequately cover the cost thereof;

It further appearing, that the Commission presently has reason to believe that the Burlington Northern, Inc., Norfolk and Western Railway Co., The Atchison, Topeka and Santa Fe Railway Co., Chicago, Milwaukee, St. Paul and Pacific Railroad Co., Illinois Central Railroad Co. and Missouri Pacific Railroad Co., common carriers by railroad subject to Part I of the Interstate Commerce Act, serving St. Louis, Mo. and Chicago, Ill. have been performing loading and unloading services for major shippers at freight houses and leased facilities at these points for charges which are inadequate and substantially less than the costs thereof; and good cause appearing therefor:

It is ordered, That upon our own motion and pursuant to the provisions of sections 12, 13, and 20 of the Interstate Commerce Act (49 U.S.C. 12, 13, 20) an investigation be, and it is hereby entered concerning the charges and practices of Burlington Northern, Inc., Norfolk and Western Railway Company, The Atchison, Topeka and Santa Fe Railway Co., Chicago, Milwaukee, St. Paul and Pacific Railroad Co., Illinois Central Railroad Co., and Missouri Pacific Railroad Co. to determine whether said respondent rail carriers have violated sections 2, 3, and 6 of the Act, and if such violations are found, to enter an order or orders requiring any person participating therein to take such action as may be necessary to prevent further violations of said provisions;

It is further ordered, That the Bureau of Enforcement is hereby directed to participate in this proceeding as a party;

It is further ordered, That no oral hearing be scheduled for receiving of testimony in this proceeding unless a need therefor should later appear; that each of the respondents shall submit a special report substantially conforming to the form set forth in the appendix to this order,[1] and containing the information required therein, verified by an authorized official of such respondent, together with any statement of position as to the compensatory nature of the charges and any additional facts, argument and citation of authorities as it may deem appropriate concerning the reasonableness and legal propriety of the practices and charges made the subject of this investigation, within thirty (30) days after service hereof;

It is further ordered, That within sixty (60) days after the filing of the required special reports and any statements of position, the Bureau of Enforcement and any other interested persons shall file and serve their statement of position together with any analysis of respondents' special reports and any additional facts, argument and citation of authorities as may be deemed appropriate concerning the reasonableness and legal propriety of the practices and charges made the subject of this investigation;

And it is further ordered, That a copy of this order be served upon said respondents, and, in view of the nature and scope of this proceeding, that notice of this proceeding be given to the public by posting a copy of this order in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. for public inspection, and to the Director, Office of the Federal Register.

By the Commission, Division 2.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-13811 Filed 9-17-71;8:49 am]

[Notice 364]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 14, 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

[1] Appendix filed as part of the original document.

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.

MOTORS CARRIERS OF PROPERTY

No. MC 103993 (Sub-No. 646 TA) (Correction), filed July 20, 1971, published FEDERAL REGISTER issues of July 30, 1971, and August 10, 1971, respectively, corrected and republished in part as corrected this issue. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, IN 46514. Applicant's representative: Ralph H. Miller, (same address as above). NOTE: The purpose of this partial republication is to include *New York* as a destination point which was inadvertently omitted in previous publication. The rest of the notice remains the same.

No. MC 107230 (Sub-No. 5 TA), filed September 2, 1971. Applicant: B & H TRUCKAWAY COMPANY, 22440 South Alameda Street, Carson, CA 90810, Post Office Box 138, Long Beach, CA 90801. Applicant's representative: Phil Jacobson, 510 West Sixth Street, Los Angeles, CA. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foreign automobiles*, from port of entry on the international boundary line between the United States and Mexico, located at or near Ysidro, Calif., to Carson, Calif., for 180 days. Supporting shipper: Volkswagen Pacific, Inc., 11300 Playa Street, Culver City, CA 90232. 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 107295 (Sub-No. 546 TA), filed September 7, 1971. Applicant: PRE-FAB TRANSIT COMPANY, Post Office Box 146, 100 South Main Street, Farmer City, IL 61842. Applicant's representative: Bruce J. Kinnee (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel pallet racks and accessories*, from the plantsite and storage facilities of Speedrack, Inc., at Quincy and Rock Island, Ill., to Tulsa, Okla., South Burnsville, Minn., Washington, D.C., Willow Brook, Pa., and Little Canada, Minn., for 180 days. Supporting shipper: Robert E. Tofall, Traffic Manager, Speedrack, Inc., Skokie, Ill. 60076. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 325 West Adams Street, Room 476, Springfield, IL 62704.

No. MC 110525 (Sub-No. 1013 TA), filed September 7, 1971. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, PA 19335. Applicant's representative: Thomas J. O'Brien (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Etchants*, in bulk, in tank vehicles, and *return of spent etchants*, between Garland, Tex., and Joplin and Springfield, Mo., for 180 days. Supporting shipper: Southern California Chemical Co., Inc., 1000 Profit Drive, Garland, TX 75040. Send protests to: Peter R. Guman, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1518 Walnut Street, Room 1600, Philadelphia, PA 19102.

No. MC 111831 (Sub-No. 8 TA) (Correction), filed August 5, 1971, published FEDERAL REGISTER August 19, 1971, corrected and republished in part as corrected this issue. Applicant: SAMUEL STANGLE, Post Office Box 14, Martinsville, NJ 08836. Applicant's representative: Paul J. Keeler, Post Office Box 253, South Plainfield, NJ 07080. NOTE: The purpose of this partial republication is to set forth the correct commodity description to read brick and clay *products*, in lieu of brick and clay, which was inadvertently omitted in previous publication. The rest of the notice remains the same.

No. MC 113678 (Sub-No. 436 TA), filed September 1, 1971. Applicant: CURTIS, INC., Post Office Box 16004, Stockyards Station, Denver, CO 80216, Office: 4810 Pontiac Street, Commerce City, CO 80022. Applicant's representative: David L. Metzler (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat and meat products*, from Omaha, Nebr., to points in Illinois, Indiana, Ohio, and Michigan, for 180 days. Supporting shipper: Omaha Steaks International, 4400 South 96th Street, Omaha, NE 68127. Send protests to: District Supervisor Herbert C. Ruoff, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, Denver, Colo. 80202.

No. MC 115379 (Sub-No. 38 TA) (Correction), filed August 23, 1971, published FEDERAL REGISTER September 8, 1971, corrected and republished in part as corrected in this issue. Applicant: JOHN D. BOHR, INC., Post Office Box 217, Annville, PA 17003. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. NOTE: The purpose of this partial republication is to set forth the correct territory description from *Lewisburg, Pa.*, in lieu of from Lewiston, Pa., shown erroneously in previous publication. The rest of the notice remains the same.

No. MC 119789 (Sub-No. 86 TA) (Amendment), filed August 5, 1971, published FEDERAL REGISTER August 17, 1971, amended and republished as amended this issue. Applicant: CARAVAN REFRIGERATED CARGO, INC., Post Office Box 6188, Dallas, TX 75222. Applicant's representative: James T. Moore (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and bottled foodstuffs*, from the plantsite and storage facilities of B. F. Trappey's Son, Inc., at New Iberia and Lafayette, La., to points in Kansas, Oklahoma, Texas, Arkansas, Colorado, New Mexico, Arizona, and California, for 180 days. NOTE: Applicant does not intend to tack authority. Supporting shipper: B. F. Trappey's Sons, Inc., New Iberia, La. Send protests to: District Supervisor E. K. Willis, Jr., Interstate Commerce Commission, Bureau of Operations, 1100 Commerce Street, Room 13C12, Dallas, TX. NOTE: The purpose of this republication is to set forth the amended commodity description, and to change the origin of the application to show from the plant and storage facilities of the supporting shipper.

No. MC 128285 (Sub-No. 9 TA), filed September 8, 1971. Applicant: MELLOW TRUCK EXPRESS, INC., Post Office Box 17063, 9801 North Vancouver Way, Portland, OR 97217. Applicant's representative: David C. White, Farley Building, 2400 Southwest Fourth Avenue, Portland, OR 97201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Veneer, plywood, and particle board*, between points in Oregon, Washington, and California, for the account of Fronville Commercial Co., Inc., Wilsonville, Oreg., for 180 days. Supporting shipper: Fronville Commercial Co., Inc., Post Office Box 25, Wilsonville, OR 97070. Send protests to: District Supervisor W. J. Huetig, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, 319 Southwest Pine Street, Portland, OR 97204.

No. MC 129039 (Sub-No. 8 TA), filed September 7, 1971. Applicant: JACOBY TRANSPORT SYSTEM, INC., 4754 James Street, Philadelphia, PA 19137. Applicant's representative: Harold Burgher (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ice cream*, in packages and cartons (except in bulk, in tank vehicles), from Woodbridge, N.J., to Farmingdale, Long Island, N.Y., and *materials and food products used in the manufacture of ice cream, and cartons* used in packaging ice cream, from Farmingdale, Long Island, N.Y., to Woodbridge, N.J., for 120 days. Supporting shipper: Dolly Madison Ice Cream Co., Inc., Fourth and Polar Streets, Philadelphia, Pa. 19123. Send protests to: F. W. Doyle, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1518 Walnut Street, Room 1600, Philadelphia, PA 19102.

No. MC 133220 (Sub-No. 4 TA), filed September 8, 1971. Applicant: RECORD

TRUCK LINE, INC., Post Office Box 11, Henderson, TN 38340. Applicant's representative: James H. Record (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fire prevention sprinkler systems and fire prevention sprinkler systems parts, accessories and attachments, and tools, devices and apparatus used in the installation and erection thereof; and* (2) *pipe fittings, pipe connections, castings, and valves*, from the plantsite and warehouse facilities of Grinnell Corp., Fire Protection Division, located at or near Cleveland, N.C., in Rowan County, N.C., to points in the United States except Alaska and Hawaii; and (3) *materials, tools, devices, and apparatus* used in the fabrication; assembly and installation of (1) and (2) above from points in the United States (except Alaska and Hawaii) to the plant site and warehouse facilities of Grinnell Corp., Fire Protection Division, located at or near Cleveland, N.C., in Rowan County, N.C., for 180 days. NOTE: Applicant proposes to combine truckloads at the proposed origin point with presently authorized point of Henderson, Tenn., on outbound and any other points susequently authorized in pending applications. On inbound, applicant proposes to stop off for partial delivery at Henderson or other subsequently authorized points in connection with final deliveries at proposed origin at Cleveland, Rowan County, N.C., or the reverse thereof as the case may be. Supporting shipper: The Grinnell Corp., Providence, R.I. Send protests to: Floyd A. Johnson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 933 Federal Office Building, 167 North Main Street, Memphis, TN 38103.

No. MC 134868 (Sub-No. 1 TA), (Correction), filed July 28, 1971, published FEDERAL REGISTER August 17, 1971, corrected and republished in part as corrected this issue. Applicant: COIN DEVICES CORP., 68 Broad Street, Elizabeth, NJ 07201. Applicant's representative: Robert B. Pepper, 174 Brower Avenue, Edison, NJ 08817. NOTE: The purpose of this partial republication is to add the restriction in part (2) above, under continuing contract with Commonwealth Silver Industries, Ltd., Millburn, N.J., which was inadvertently omitted in previous publication. The rest of the notice remains the same.

No. MC 135281 (Sub-No. 8 TA), filed September 7, 1971. Applicant: RAYMOND LANGLEY, doing business as LANGLEY TRUCKING, Route No. 4, Box 61, Elizabethtown, KY 42701. Applicant's representative: George M. Catlett, Suite 703–706, McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molten aluminum alloy*, from the plantsite of National Aluminum Corp. in Hancock, County, Ky., to Bedford, Ind., for 180 days. Supporting shipper: Mr. Paul L. Klinvex, Manager, Traffic and Transportation, National Aluminum Corp., 2800 Grant Building, Pittsburgh, Pa. 15219. Send protests to: Wayne L. Merilatt, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 426 Post Office Building, Louisville, Ky. 40202.

No. MC 135957 TA, filed September 7, 1971. Applicant: POC, INC., doing business as DREXEL MOVING AND STORAGE CO., 747 West Rialto Avenue, San Bernardino, CA 92410. Applicant's representative: John Paul Fischer, 140 Montgomery Street, San Francisco, CA. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in San Diego, San Bernardino, Orange, Los Angeles, Luis Obispo Counties, Calif., restricted to the transportation of traffic having a prior or subsequent movement in containers, beyond the points authorized and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization; or unpacking, uncrating, and decontainerization of such traffic, for 180 days. Supporting shippers: Mollerup Freight Forwarding Co., 2900 South Main Street, Salt Lake City, UT 84115; Delcher Intercontinental Moving Service, Post Office Box 507, Jacksonville, FL 32201. 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.

By the Commission.

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

[FR Doc.71–13812 Filed 9–17–71;8:49 am]

[Notice 752]

MOTOR CARRIER TRANSFER PROCEEDINGS

SEPTEMBER 15, 1971.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC–72842. By order of September 13, 1971, the Motor Carrier Board approved the transfer to Twelve Gate Farm, Inc., Lincroft, N.J., of the operating rights in certificate No. MC–113297 issued October 9, 1952, to Schwarz Horse Transportation Co., a corporation, Oakhurst, N.J., authorizing the transportation of livestock, other than ordinary livestock and in connection therewith, personal effects of attendants and supplies and equipment, between points in New Jersey, on the one hand, and, on the other, points in Massachusetts, Maine, Connecticut, Rhode Island, North Carolina, South Carolina, West Virginia, Virginia, New Jersey, New York, Maryland, Pennsylvania, Delaware, and the District of Columbia. Peter P. Frunzi, Jr., 1008 Highway 35, Middletown, NJ 07748, attorney for applicants.

No. MC–FC–73123. By order of September 10, 1971, the Motor Carrier Board approved the transfer to Morgan Tranportation System, Inc., International, New Paris, Ind., of the operating rights in certificates Nos. 126039, MC–126039 (Sub-No. 2), MC–126039 (Sub-No. 4), MC–126039 (Sub-No. 5), MC–126039 (Sub-No. 6), MC–126039 (Sub-No. 7), and MC–126039 (Sub-No. 11) issued November 3, 1964, August 5, 1965, December 2, 1968, September 30, 1968, November 24, 1969, July 2, 1969, and February 11, 1971, respectively to Morgan Transportation System, Inc., New Paris, Ind., authorizing the transportation of named commodities from specified points in Indiana and Illinois to specified points and areas in Illinois, Indiana, Ohio, Michigan, Kentucky, and Missouri and from specified points in Indiana to points in the United States except Hawaii, Virginia, North Carolina, South Carolina, Georgia, and Nebraska. Walter F. Jones, Jr., 601 Chamber of Commerce Building, Indianapolis, Ind. 46204, attorney for applicants.

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

[FR Doc.71–13813 Filed 9–17–71;8:49 am]

[Notice 74]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

SEPTEMBER 15, 1971.

The following publications are governed by the new § 1.247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

APPLICATIONS ASSIGNED FOR ORAL HEARING

MOTOR CARRIERS OF PROPERTY

No. MC 119045 (Sub-No. 4) (Correction), filed October 15, 1970, published in the FEDERAL REGISTER, issues of November 13, 1970, and May 27, 1971, and republished in part as corrected this issue. Applicant: T.E.K. VAN LINES, INC., 9123 East Garvey Avenue, Rosemead, CA 91770. Applicant's representative:

Robert J. Gallagher, 1776 Broadway, New York, NY 10019. NOTE: The purpose of this partial republication is to reflect the following information: Through a mistake, the application, as originally filed with the Commission indicated that the present authority of applicant would be canceled, and that it did not intend to tack its present authority with the authority sought. Both of these statements were incorrect. Applicant intends to retain its present authority if this application is granted, and intends to tack it to the authority sought if the application is granted. The rest of the notice of filing remains as previously published.

HEARING: Remains as assigned on September 27, 1971, at 9:30 a.m. (or 9:30 a.m., U.S. Standard Time, if that time is observed), in Room 13025, 450 Golden Gate Avenue, San Francisco, CA.

By the Commission.

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

[FR Doc.71-13819 Filed 9-17-71;8:49 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

PROCLAMATIONS:
4077 — 17557
4078 — 17559
4079 — 18453

EXECUTIVE ORDERS:
10713 (amended by EO 11618) — 18365
11010 (see EO 11618) — 18365
11263 (see EO 11618) — 18365
11395 (see EO 11618) — 18365
11615 (amended by EO 11617) — 17813
11617 — 17813
11618 — 18365

5 CFR

213 — 17483, 17484, 17561, 17815, 17816, 17979, 18455
294 — 18455
550 — 17816

7 CFR

42 — 18455
210 — 18173
301 — 18367
354 — 17484
701 — 18289
718 — 17485
775 — 17643
792 — 17561
831 — 18298
905 — 18371, 18372, 18635
908 — 17563, 18059, 18507
910 — 17485, 17816, 17979, 18299, 18459, 18636
911 — 18636
931 — 18059
945 — 17816
948 — 18299
958 — 17817
981 — 18372
1004 — 17491
1050 — 17492
1079 — 17817
1106 — 17492
1421 — 18300
1446 — 18060, 18637
1802 — 17818
1803 — 17832
1804 — 18062
1814 — 18069
1863 — 17833
1864 — 17833
1865 — 17840
1866 — 17841
1867 — 17843

7 CFR—Continued

PROPOSED RULES:
101 — 17579
271 — 18213
272 — 18213
722 — 18322, 18412
724 — 18198
725 — 18000
726 — 18198
728 — 18322
729 — 17872
775 — 18322
906 — 18001
910 — 17579
927 — 18473
929 — 17875, 18413
932 — 18085
946 — 17875
948 — 18002
966 — 18095, 18212, 18656
971 — 18656
993 — 17579
999 — 18323
1001 — 17580
1002 — 17580
1004 — 17580
1007 — 18413
1015 — 17580, 17586
1068 — 18474
1124 — 18531
1133 — 17588
1421 — 18323, 18473
1464 — 17874, 18473

8 CFR

214 — 18300, 18460

9 CFR

75 — 18507
76 — 17844, 18461

PROPOSED RULES:
317 — 18583

10 CFR

2 — 18173
50 — 18071, 18301
70 — 17573
140 — 17979
170 — 18173

12 CFR

265 — 18373
524 — 17564
545 — 17564, 17980

12 CFR—Continued

701 — 18637
702 — 18637
706 — 18637
707 — 18637
708 — 18637
709 — 18637
710 — 18637
711 — 18637
715 — 18637
720 — 18637

PROPOSED RULES:
9 — 18082
222 — 17514, 18427

13 CFR

121 — 17492

PROPOSED RULES:
121 — 17514

14 CFR

39 — 17493, 17494, 17847–17849, 18190, 18301, 18302, 18373, 18461, 18462, 18508, 18638, 18639
61 — 17495
63 — 17495
71 — 17495, 17496, 17575, 17643, 17644, 17849, 18076, 18077, 18191–18193, 18302, 18303, 18463, 18508–18511, 18575, 18639, 18640
73 — 18193, 18511, 18512
75 — 17849, 18575, 18576
91 — 17495, 18304
95 — 18512
97 — 17575, 18193, 18577
121 — 17495
123 — 17495
127 — 17495
135 — 17495
208 — 17644

PROPOSED RULES:
36 — 18584
39 — 17512, 18476, 18532
71 — 17513, 17588, 17589, 17653–17655, 17876, 18109, 18110, 18214, 18476, 18533
73 — 17876
135 — 18425
202 — 18111
207 — 17655

43 CFR—Continued

Page

PUBLIC LAND ORDERS—Continued

45 CFR

PROPOSED RULES:

46 CFR

Page

PROPOSED RULES:

47 CFR

PROPOSED RULES:

49 CFR

49 CFR—Continued

Page

PROPOSED RULES:

50 CFR

PROPOSED RULES:

LIST OF FEDERAL REGISTER PAGES AND DATES—SEPTEMBER

Pages	*Date*	*Pages*	*Date*
17477–17549	Sept. 1	18167–18281	Sept. 10
17551–17636	2	18283–18357	11
17637–17805	3	18359–18446	14
17807–17972	4	18447–18502	15
17973–18051	8	18503–18567	16
18053–18165	9	18569–18628	17
		18629–18705	18

federal register

SATURDAY, SEPTEMBER 18, 1971
WASHINGTON, D.C.

Volume 36 ■ Number 182

PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

■

Federal Health Insurance for the Aged

Conditions of Participation; Home Health Agencies

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

[20 CFR Part 405]

[Regs. No. 5]

FEDERAL HEALTH INSURANCE FOR THE AGED

Conditions of Participation; Home Health Agencies

Notice is hereby given, pursuant to the Administrative Procedure Act (5 U.S.C. 552 et seq.), that the regulations set forth in tentative form below are proposed by the Commissioner of Social Security, with the approval of the Secretary of Health, Education, and Welfare. For a home health agency to be eligible for participation as a provider of services in the health insurance program for the aged, it must meet the specific statutory requirements of section 1861(o) of the Social Security Act as well as the conditions established in the interest of health and safety. The proposed regulations:

(a) Reorganize the present regulations relating to the conditions of participation which home health agencies are required to meet for purposes of participating in the program;

(b) Clarify and expand the conditions by providing:

(1) That certifications and recertifications by the State agency that a home health agency is in substantial compliance with the conditions of participation will be for a period of 1 year instead of 2 years;

(2) That a home health agency shall have a governing body legally responsible for its operation;

(3) That the administrator meet certain qualifications and assume certain responsibilities; and

(4) That branch offices (unlike other subdivisions of home health agencies) shall automatically meet the conditions of participation approved for the parent agency; and

(5) That owners of agencies be identified;

(6) That the content of a contract be specified in detail; and

(7) That program evaluation be carried out annually and include record review; and

(c) Incorporate provisions relating to outpatient physical therapy services which are already incorporated in Subpart Q of this part.

Prior to the final adoption of the proposed regulations, consideration will be given to any data, comments, or arguments pertaining thereto which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare Building, Fourth and Independence Avenue SW., Washington, DC 20201, within a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER.

Written documents received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Public Affairs, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 3193, 330 Independence Avenue SW., Washington, DC 20201.

The proposed regulations are to be issued under the authority contained in sections 1102, 1861(o), 1863, 1864, and 1871, 49 Stat. 647, as amended, 79 Stat. 314–316, 79 Stat. 320, 79 Stat. 325–326, 79 Stat. 331, 42 U.S.C. 1302, 1395 et seq.

Dated: August 18, 1971.

ROBERT M. BALL,
Commissioner of Social Security.

Approved: September 13, 1971.

ELLIOT L. RICHARDSON,
Secretary of Health, Education, and Welfare.

Subpart L of Part 405 of Chapter III of Title 20 of the Code of Federal Regulations is revised to read as follows:

§ 405.1201 General.

(a) In order to participate as a home health agency in the health insurance program for the aged, an institution must be a "home health agency" within the meaning of section 1861(o) of the Social Security Act. This section of the law states a number of specific requirements which must be met by participating home health agencies and authorizes the Secretary of Health, Education, and Welfare to prescribe other requirements considered necessary in the interest of health and safety of beneficiaries. Section 1861(o) of the Act provides:

(o) The term "home health agency" means a public agency or private organization, or a subdivision of such an agency or organization, which—

(1) Is primarily engaged in providing skilled nursing services and other therapeutic services;

(2) Has policies, established by a group of professional personnel (associated with the agency or organization), including one or more physicians and one or more registered professional nurses, to govern the services (referred to in paragraph (1)) which it provides, and provides for supervision of such services by a physician or registered professional nurse;

(3) Maintains clinical records on all patients;

(4) In the case of an agency or organization in any State in which State or applicable local law provides for the licensing of agencies or organizations of this nature, (A) is licensed pursuant to such law, or (B) is approved, by the agency of such State or locality responsible for licensing agencies or organizations of this nature, as meeting the standards established for such licensing; and

(5) Meets such other conditions of participation as the Secretary may find necessary in the interest of the health and safety of individuals who are furnished services by such agency or organization;

except that such term shall not include a private organization exempt from Federal income taxation under section 501 of the Internal Revenue Code of 1954 (or a subdivision of such organization) unless it is licensed pursuant to State law and it meets such additional standards and requirements as may be prescribed in regulations; and except that for purposes of Part A such term shall not include any agency or organization which is primarily for the care and treatment of mental diseases.

(b) The requirements included in the statute and the additional health and safety requirements prescribed by the Secretary are set forth in the conditions of participation for home health agencies. A home health agency which meets all of the specific statutory requirements and which is found to be in substantial compliance with the additional conditions prescribed by the Secretary may, if it so desires, agree to become a participating home health agency.

(c) The Secretary may, at the request of a State, approve higher health and safety requirements for that State. Also, where a State or political subdivision imposes higher requirements on home health agencies as a condition for the purchase of services under a State plan approved under title I, XVI, or XIX of the Social Security Act, the Secretary is required to impose like requirements as a condition to the payment for services by such home health agencies in that State or subdivision. (See Addenda to §§ 405.1222, 405.1224, 405.1226, and 405.1231.)

(d) Attention is invited to the requirements of title VI of the Civil Rights Act of 1964 (78 Stat. 252; Public Law 88-352) which provides that no person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance (sec. 601), and to the implementing regulation issued by the Secretary of Health, Education, and Welfare with the approval of the President (Part 80 of Title 45 of the Code of Federal Regulations).

§ 405.1202 Conditions of participation; general.

For an agency to be eligible for participation in the program, it must meet the statutory requirements of section 1861(o) and there must be a finding of substantial compliance on the part of the agency with all the other conditions. These conditions which include both the statutory requirements and the additional health and safety requirements prescribed by the Secretary are set forth in § 405.1209 et seq. They are requirements relating to the quality of care and and the adequacy of the services and facilities which the agency provides. Variations in the type and size of agencies and the nature and scope of services offered will be reflected in differences in the details of organization and staffing. However, the test is whether there is substantial compliance with each of the conditions.

§ 405.1203 Standards; general.

As a basis for a determination as to whether or not there is substantial compliance with the prescribed conditions in the case of any particular home health

agency, a series of standards, almost all interpreted by explanatory factors, are listed under each condition. These standards represent a variety of activities which home health agencies may undertake or be pursuing in order to carry out the functions embodied in the conditions. Reference to these standards will enable the State agency surveying the home health agency to document the activities of the agency, to establish the nature and extent of its deficiencies, if any, with respect to a particular function, and to assess the agency's need for improvement in relation to the prescribed conditions. In substance, the application of the standards, together with the explanatory factors, will indicate the extent and degree to which a home health agency is complying with each condition.

§ 405.1204 Certification by State agency.

(a) The Health Insurance for the Aged Act provides that the services of State agencies, operating under agreements with the Secretary, will be used by the Secretary in determining whether institutions meet the conditions of participation. Pursuant to these agreements, State agencies will certify to the Secretary home health agencies which are found to be in substantial compliance with the conditions. Such certifications shall include findings as to whether each of the conditions is substantially met. The Secretary, on the basis of such certification from the State agency, will determine whether or not an entity is a home health agency eligible to participate in the health insurance program as a provider of services.

(b) The decisions of the State agency represent recommendations to the Secretary. Notice of determination of eligibility or noneligibility made by the Secretary on the basis of a State agency decision will be sent to the home health agency by the Social Security Administration after such review and professional consultation with the Public Health Service as may be required. If it is determined that the home health agency does not comply with the conditions of participation, the home health agency may request that the determination be reviewed. For procedures relating to appeals process, see Subpart O of this Part 405.

(c) In the case of a home health agency with subunits (§ 405.1221(a)), separate agreements are required for each subunit certified by the State agency as meeting the conditions of participation. This requirement, however, does not apply to subunits of a State Health Department.

§ 405.1205 Principles for the evaluation of home health agencies to determine whether they meet the conditions of participation.

Home health agencies will be considered in substantial compliance with the conditions of participation upon acceptance by the Secretary of findings, adequately documented and certified to by the State agency, showing that:

(a) The home health agency meets the specific statutory requirements of section 1861(o) and is found to be operating in accordance with all other conditions of participation with no significant deficiencies, or

(b) The home health agency meets the specific statutory requirements of section 1861(o) but is found to have deficiencies with respect to one or more other conditions of participation which:

(1) It is making reasonable plans and efforts to correct; and

(2) Notwithstanding the deficiencies, is rendering adequate care and without hazard to the health and safety of individuals being served, taking into account special procedures or precautionary measures which have been or are being instituted.

§ 405.1206 Condition—time limitations on certifications of substantial compliance.

(a) All initial certifications and recertifications by the State agency to the effect that a home health agency is in substantial compliance with the conditions of participation will be for a period of 1 year. Ordinarily, a resurvey will be scheduled annually; however, the resurvey may be conducted earlier than the scheduled time if the circumstances warrant it. State agencies may visit or resurvey institutions where necessary to ascertain continued compliance or to accommodate to periodic or cyclical survey programs. A State finding and certification to the Secretary that an institution is no longer in compliance may occur within the 1-year period of certification.

(b) If a home health agency is certified by the State agency as in substantial compliance under the provisions of § 405.1205(b) the following information will be incorporated into the finding and, if the Secretary determines that the home health agency is eligible to participate in the program as a provider of services, into a notice of eligibility to the home health agency:

(1) A statement of the deficiencies which were found; and

(2) A description of progress which has been made and further action which is being taken to remove the deficiencies; and

(3) A scheduled time for a resurvey of the institution to be conducted not later than 1 year (or earlier, depending on the nature of the deficiencies) from the date of certification.

§ 405.1207 Certification of noncompliance.

The State agency will certify that a home health agency is not in compliance with the conditions of participation, or, where a determination of eligibility has been made, that it is no longer in compliance where:

(a) The home health agency is not in compliance with one or more of the statutory requirements of section 1861(o); or

(b) The home health agency has deficiencies of such character as to seriously limit its capacity to render adequate care or to place health and safety of individuals in jeopardy, and consultation with the home health agency has demonstrated that there is no early prospect of such significant improvement as to establish substantial compliance as of a later beginning date; or

(c) After a previous period or part thereof for which the home health agency was certified under circumstances outlined in § 405.1205(b), there is a lack of progress toward a removal of deficiencies which the State agency finds are adverse to the health and safety of individuals being served.

(d) If, on the basis of a State agency certification, it is determined by the Secretary that the home health agency does not substantially meet, or no longer substantially meets the conditions of participation, the agreement for participation may not be accepted for filing, or if filed, may be terminated. The agency may request that the determination be reviewed. For procedures relating to the appeals process, see Subpart O of this Part 405.

§ 405.1208 Documentation of findings.

The findings of the State agency with respect to each of the conditions of participation should be adequately documented. Where the State agency certification to the Secretary is that a home health agency is not in compliance with the conditions of participation, such documentation should include a report of all consultation which has been undertaken in an effort to assist the home health agency to comply with the conditions, a report of the home health agency's responses with respect to the consultation, and the State agency's assessment of the prospects for such improvements as to enable the home health agency to achieve substantial compliance with the conditions.

§ 405.1209 Qualifying to provide outpatient physical therapy services.

Section 1861(p) of the Social Security Act provides in pertinent part as follows:

(p) The term "outpatient physical therapy services" means physical therapy services furnished by a provider of services, a clinic, a rehabilitation agency, or a public health agency, or by others under an arrangement with, and under the supervision of, such provider, clinic, rehabilitation agency or public health agency to an individual as an outpatient * * *.

As a provider of services, a home health agency may provide outpatient physical therapy services if it meets the statutory requirements of section 1861(o) of the Act and substantially complies with all other health and safety requirements prescribed by the Secretary (see § 405.-1202, supra) and, additionally, is in substantial compliance with all applicable health and safety requirements pertaining to rendition of outpatient physical therapy services. The applicable health and safety requirements pertaining to outpatient physical therapy services are included in Subpart Q of this part. (See §§ 405.1720, 405.1722, 405.1724, and 405.-1725.) A State agency finding and certification that the home health agency is or is not in substantial compliance with

applicable conditions will be communicated to the Secretary. Notice of determination made by the Secretary will be sent to the home health agency.

§ 405.1220 Condition of participation: compliance with Federal, State, and local laws.

(a) *Condition.* The home health agency is in conformity with all applicable Federal, State, and local laws, regulations, and similar requirements.

(b) *Standard: Licensing of home health agency.* A home health agency, which is a nonprofit organization exempt from Federal income taxation under section 501 of the Internal Revenue Code of 1954 (or a subdivision of such organization) in a community where State or applicable local law provides for the licensing of such agencies, is licensed pursuant to such law or approved by the State or local licensing agency as meeting the standards for licensure. A proprietary organization which is not exempt from Federal income taxation under section 501 of the Internal Revenue Code of 1954 (or a subdivision of such organization) in all instances is licensed as a home health agency pursuant to State law. If no State law exists for the licensure of a proprietary home health agency, it cannot be certified for participation in the health insurance program.

(c) *Standard: Licensing of staff.* Staff of the home health agency is currently licensed or registered in accordance with applicable laws. The agency maintains a recording and verification procedure that insures valid and current licensure.

(d) *Standard: Conformity with other laws.* The home health agency is in conformity with all other Federal, State, and local laws and regulations relating to communicable and reportable diseases, and other relevant matters.

§ 405.1221 Condition of participation: Organization and functions.

(a) *Condition.* (1) The home health agency, which can be a public agency, private organization, or a subdivision of such agency or organization, operates under an organizational arrangement (see paragraph (c) of this section) and carries out its primary functions of providing part-time or intermittent skilled nursing services and other covered therapeutic services on a visiting basis in a place of residence used as an individual's home. For purposes of Part A post-hospital home health benefits, the term "home health agency" does not include any agency or organization which is primarily for the care and treatment of mental diseases.

(2) A subdivision is a component of a multifunction health agency such as the home care department of a hospital or the nursing division of a health department. Each such subdivision meets independently all applicable conditions of participation.

(3) In all other instances of subunits of a parent agency, such as local units of a State health department or other parent agency which provides only certain administrative and fiscal functions to the subunits, the subunits independently meet all applicable conditions of participation.

(b) *Standard: operating authority.* The administrative control of the agency is readily identifiable. Policies are established to assure that the services provided by the agency directly and indirectly are controlled and supervised by the primary agency. The administrative and supervisory functions of a home health agency may not be delegated to another agency or organization. The factor explaining the standard is as follows: There is a written organizational plan that delineates clearly the lines of authority for the delegation of responsibility which extends to all levels of operation including subdivisions, branch offices, and subunits.

(1) Separate records are maintained for each organizational unit of a public agency or private organization, or subdivision of such agency or organization, identifying the type of home health services provided and costs of such services.

(2) Branch offices of an agency operate under a single governing body, follow identical policies, and provide identical services within the overall geographic area (not larger than a metropolitan or a multicounty area) served by the parent agency. An example is a branch office of a visiting nurse association, or an area office of a local health department.

(c) *Standard: Organizational arrangements.* The home health agency operates under an organizational arrangement which may be one of the following if in compliance with State licensure laws:

(1) A public agency which is any agency operated by a State or local government.

(2) A nonprofit agency which is a private (i.e., nongovernmental) agency exempt from Federal income taxation under section 501 of the Internal Revenue Code of 1954.

(3) A proprietary agency which is a private profitmaking agency and is licensed by the State.

(d) *Standard: Provision of services.* At a minimum, skilled nursing services and at least one other therapeutic service (physical, speech, or occupational therapy, medical social services, or home health aide services) are provided on a visiting basis either directly or under arrangements, on the order of a physician and in a place of residence used as a patient's home. The factors explaining the standard are as follows:

(1) A public or nonprofit home health agency provides directly through agency employees at least one of the qualifying services but may make arrangements with another public or nonprofit agency to provide the second qualifying service and any additional services.

(2) A proprietary home health agency provides all services directly.

§ 405.1222 Condition of participation: Agency administration.

(a) *Condition.* The home health agency has an organized governing body, or designated person(s) so functioning, which is legally responsible for the conduct of the agency, which appoints an administrator and supervisor of professional services, establishes administrative policies, and performs the functions herein pertaining to the governing body.

(b) *Standard: Governing body.* There is a governing body which assumes full legal responsibility for the overall conduct of the organization. The factors explaining the standard are as follows:

(1) The ownership of the home health agency is fully disclosed to the State agency. In the case of corporations, the corporate officers are named and each person having (directly or indirectly) an ownership interest of 10 percentum or more is identified.

(2) The governing body is responsible for compliance with the applicable laws and regulations of legally authorized agencies.

(3) The governing body appoints an advisory group of professional personnel, which includes one or more members who are practicing physicians and one or more registered nurses, preferably public health nurses, and representatives from other professional disciplines as indicated by the scope of the agency's program.

(4) The governing body approves policies established by the advisory group.

(c) *Standard: Bylaws or equivalent.* The governing body adopts bylaws, or an acceptable equivalent thereof, which may be a charter, an official statement of objectives or administrative policies governing the agency in accordance with legal requirements. The factors explaining the standard are as follows:

(1) The bylaws are written, revised as needed, and made available to all members of the governing body and the advisory group of professional personnel.

(2) The terms of the bylaws cover at least the following:

(i) The basis upon which members of the governing body are selected, their terms of office, and their duties and responsibilities.

(ii) A provision specifying to whom responsibilities for direction and supervision of the program and evaluation of practices may be delegated, and the methods established by the governing body for holding such individuals responsible.

(iii) A provision designating necessary officers, their terms of office, and their duties.

(iv) A provision specifying the frequency of board meetings and requiring that minutes be taken.

(v) A provision requiring the establishment of personnel policies.

(d) *Standard: Administrator.* The governing body, or its equivalent, appoints a qualified administrator and specifies his responsibilities in writing. The administrator may be a public health nurse, physician, or other individual with training and experience in professional nursing administration or health services administration. The factors explaining the standard are as follows:

(1) The administrator has had at least 1 year of supervisory or administrative experience in home health or related health programs.

(2) A qualified individual is authorized to act in the absence of the administrator.

(e) *Standard: Responsibilities of the administrator.* The administrator acts as the executive officer of the governing body, and is responsible for the overall direction and management of the affairs of the home health agency, and the services provided. The factors explaining the standard are as follows:

(1) In discharging his duties, the administrator keeps the governing body fully informed of the conduct of the agency through regular written reports and by attendance at meetings of the governing body.

(2) The administrator employs qualified personnel and arranges for their orientation and continuing education.

(3) The administrator organizes the day-to-day functions of the home health agency through appropriate delegation of duties and establishes formal means of accountability on the part of staff members to whom he has assigned duties.

(4) The administrator develops and implements an accounting and reporting system that reflects the fiscal experience and current financial position of the agency, including the development of a budgetary program.

(5) The administrator negotiates for services provided by contract in accordance with legal requirements and established policies of the agency.

(6) The administrator holds periodic meetings in order to maintain liaison between the governing body, the professional advisory group, and the professional staff of the agency.

(7) The administrator has sufficient freedom from other responsibilities to permit adequate attention to the overall direction and management of the agency.

(f) *Standard: Supervising physician or registered nurse.* The governing body appoints a physician or a registered nurse to direct, supervise, and coordinate the skilled nursing services and other therapeutic service provided by the agency. A physician or a registered nurse may serve as the administrator and also be responsible for the supervision of the services being provided by the agency. The factors explaining the standard are as follows:

(1) When a registered nurse is designated by the agency as the supervisor of professional services, it is preferable that she has had at least 1 year of nursing experience and that she be a public health nurse.

(2) The supervising physician or registered nurse is present at the agency during operating hours and is readily available to advise the staff at all times.

(3) The supervising physician or registered nurse is delegated the responsibility for or participates in the following activities:

(i) Development and revision of written patient care objectives, policies, and procedure manuals;

(ii) Development of job descriptions;

(iii) Recruitment and selection of personnel;

(iv) Establishment of number and levels of staff;

(v) Planning and conducting orientation and continuing education for agency staff engaged in patient care;

(vi) Evaluation of employee performance and termination of employment;

(vii) Planning and budgeting for provision of services;

(viii) Admission and discharge of patients.

Addendum to § 405.1222(f)

Pursuant to the provisions of section 1863 of title XVIII of the Act (see § 405.1201(c)), there is approved the following higher condition of participation relating to agency supervision applicable in those States identified below:

CONNECTICUT

Agency supervision—condition. The home health agency designates a physician or registered professional nurse qualified as a public health nurse director or nursing supervisor to supervise the agency's performance in providing home health services in accordance with the orders of the physician responsible for the care of the patient and under a plan of treatment established by the physician. The following qualifications apply to the supervisor and director:

(a) *Supervisor.* The minimum qualifications of the nursing supervisor are a baccalaureate degree from a university program in nursing approved by the National League for Nursing for public health nursing preparation, and a minimum of 2 years' experience in a public health nursing program under qualified nursing supervision which included supervisory responsibilities.

(b) *Director.* When a unit through which home health services are provided reaches a total nursing staff of nine to 12, depending upon the number of towns involved and area served, a qualified public health nursing director shall be employed in addition to the nursing supervisor.

(1) *Preferred.* A master's degree with a major in public health nursing administration or supervision from a university program approved by the National League for Nursing, or a master's degree in public health from a university program approved by the American Public Health Association, and at least 5 years' experience in public health nursing, including 2 years under qualified supervision and 3 years as a supervisor.

(2) *Acceptable.* A baccalaureate degree from a university program in nursing approved by the National League for Nursing, for public health nursing preparation supplemented by approved courses in public health nursing supervision and administration, and at least 5 years' experience in public health nursing, including 2 years under qualified supervision and 3 years as a supervisor.

MASSACHUSETTS

Agency supervision—Condition. The home health agency designates a physician or registered professional nurse qualified as a public health nursing director and/or supervisor to direct the agency's services. In the event that a physician is the administrator of the home health agency, the nursing service shall be under the direction of a registered professional nurse qualified as a public health nursing director and/or supervisor. All home health services shall be provided in accordance with the orders of a physician responsible for the care of the patient and under a plan of treatment established by such physician.

(a) *Public health nursing director—qualifications.* The public health nursing director is currently licensed to practice professional nursing by the State and meets the following requirements:

A master's degree with a major in public health nursing administration or supervision from a program approved by the National League for Nursing or a master's degree in public health from a program approved by the American Public Health Association, and at least 5 years' progressively responsible experience in public health nursing or community health nursing, some of which should be in supervision, teaching, and/or consultation.

(b) *Public health nursing supervisor—qualifications.* The public health nursing supervisor meets the following minimum requirements:

A master's degree in nursing from a program approved by the National League for Nursing and 1 year's experience in a family-centered public health nursing program which included supervisory responsibilities, or a baccalaureate degree from a program approved by the National League for Nursing for public health nursing preparation and 2 years of the above-described experience.

NEW JERSEY

Agency supervision—condition. The home health agency designates a physician or registered professional nurse qualified as a public health nurse director or supervisor to supervise the agency's performance in providing home health services in accordance with orders of the physician responsible for the care of the patient and under a plan of treatment established by such physician. In the event that a physician is designated to supervise the agency's services, the nursing service shall be under the direction of a registered professional nurse qualified as a public health nurse director or supervisor. The following are the requirements for qualifying as a public health nurse director or supervisor:

(a) *Director.* (1) A public health nurse director has completed a master's degree program accredited by the National League for Nursing with a nursing major in supervision, teaching, consultation or administration and advanced study in a clinical specialty; or completion of a master's program in public health in an institution accredited by the American Public Health Association; and

(2) Five years of experience in public health nursing, 1 year of which shall have been in a supervisory experience.

(b) *Supervisor.* (1) A public health nurse supervisor has completed a baccalaureate degree program approved by the National League for Nursing for public health nursing preparation or postbaccalaureate study which includes content approved by the National League for Nursing for public health nursing preparation; and

(2) Three years of experience in public health nursing under qualified nursing supervision.

RHODE ISLAND

Agency supervision—condition. The home health agency designates a physician or registered professional nurse qualified as a public health nurse director to direct the agency's services. In the event that a physician is the administrator of the home health agency, the nursing service shall be under the direction of a registered professional nurse qualified as a public health nurse director. All home health services shall be provided in accordance with the orders of the physician responsible for the care of the patient and under a plan of treatment established by such physician.

Public Health Nursing Director—qualifications. The nursing director must meet one of the following requirements:

(a) *Preferred.* A master's degree with a major in public health nursing administration, supervision, or specialty from a university program approved by the National League for Nursing or a master's degree in public health from a university program approved by the American Public Health Association; and with a minimum of 5 years' experience with a generalized public health nursing service under qualified supervision and with supervisory experience in a public health nursing agency.

(b) *Acceptable.* A baccalaureate degree from a university program in nursing approved by the National League for Nursing for public health nursing preparations supplemented by approved courses in public health nursing supervision and administration, and at least 5 years' experience in public health nursing, including 2 years under qualified supervision and 3 years as a supervisor.

(g) *Standard: Coordination of patient care services.* Close liaison is maintained between the various professionals providing skilled nursing and other therapeutic services to assure that provision of care is in accordance with the established plan of treatment. Where services are provided under contractual arrangements with other agencies, a working relationship is established and maintained to assure that the control of the provision of all services is retained by the primary home health agency. The factors explaining the standard are as follows:

(1) Dated minutes of staff meetings indicate that a review of cases takes place and that there is participation by those professionals providing care either as as employees or under contractual arrangements.

(2) The clinical record indicates that services being provided to patients under contractual arrangements or by agency employees are reported regularly with documentation to permit review and evaluation.

(3) Progress reports based upon review of cases are sent to the patient's physician and a copy of each is retained in the patient's clinical record.

(4) The home health agency maintains close working relationships with those agencies providing community services for purposes of appropriate referral.

(h) *Standard: Personnel policies.* There are written personnel policies and procedures concerning qualifications, responsibilities, and conditions of employment for each type of personnel (including licensure where licensure is required by State law). The factors explaining the standard are as follows:

(1) The policies are written, revised as needed, and made available to staff as well as to the advisory group of professional personnel.

(2) Personnel policies provide for:

(i) Wage scales and hours of work.

(ii) Eligibility for vacation, sick leave, and other fringe benefits.

(iii) Preemployment and periodic medical examination, including appropriate tests.

(iv) Orientation of all health personnel to the policies and objectives of the agency, on-the-job training, and continuing education.

(v) Periodic evaluation of employee performance and exit interview.

(vi) Job descriptions for each category of personnel, which are specific and include the type of activity each may carry out.

(vii) Maintenance of current employee records which confirm that personnel policies are followed.

§ 405.1223 Condition of participation: Services under arrangements.

(a) *Condition.* When a home health agency provides home health services under an arrangement with a public or nonprofit agency, it requires that such services be furnished in accordance with the terms of a written contract, which provides for retention by the primary agency of responsibility for and control of such services.

(b) *Standard: Content of contract with an agency.* When a home health agency makes arrangements for the provision of home health services by another agency, the written contract:

(1) Designates the services which are to be provided, the setting, and the geographical area served. Services provided are to be within the scope and limitations set forth in the plan of treatment and may not be altered in type, amount, frequency, or duration (except in the case of adverse reaction).

(2) Describes how the contracted personnel are to be supervised.

(3) Describes how services are coordinated with the primary agency.

(4) Provides for the reporting of clinical notes and observations by contracted personnel for inclusion in the primary home health agency records to facilitate planning and evaluating patient care, and to document the care given. Periodic progress notes by appropriate staff members are submitted at least monthly and more often if warranted by the patient's condition.

(5) Specifies the method of determining charges and reimbursement by the primary agency for specific services provided under contract. Only the primary agency bills for service and collects the deductible or coinsurance.

(6) Specifies the period of time the contract is to be in effect and how frequently it is to be reviewed. Preferably, the contract should be reviewed and renewed annually.

(7) Assures that personnel and services contracted for meet the requirements specified herein for home health agency personnel and services, including licensure, personnel qualifications, medical examination, functions, supervision, orientation, inservice education and attendance at case conferences.

(8) Provides for the acceptance of patients for home health service only by the primary home health agency. Patients are not to be admitted for home health service by an individual without appropriate review of the case and acceptance of the patient by the agency in accordance with § 405.1225.

(c) *Standard: Individual contracts.* When a home health agency provides home health services through an employment contract with personnel providing services on a per visit or per hour basis, as opposed to a full-time or part-time salaried basis, there is a written contract covering personnel policies, the services to be provided, the financial arrangements, and other pertinent matters. The contract:

(1) Designates the services which are to be provided by the individual under contract, the setting, and the geographical areas in which the services are to be provided. Services provided are to be within the scope and limitations set forth in the plan of treatment and may not be altered in type, amount, frequency, or duration by the individual under contract (except in the case of adverse reaction).

(2) Assures that the individual under contract meets the requirements specified herein for home health agency personnel and services, including licensure, personnel qualification, medical examination, supervision, orientation, inservice training, and attendance at case conferences.

(3) Describes the duties of the individual under contract. He regularly participates with other health personnel of the agency in policy formulation, planning when and how a plan of treatment is to be carried out, scheduling of visits, discussions for the purpose of planning and evaluating patient care in individual cases, and submits clinical notes at least weekly. Progress notes are submitted at least monthly for incorporation into the patient's clinical record.

(4) Provides for the acceptance of patients for home health service only by the primary home health agency. Patients are not to be admitted for home health service by an individual without appropriate review of the case and acceptance of the patient by the agency in accordance with § 405.1225.

(5) Specifies the financial arrangements. The individual under contract cannot bill the patient or the health insurance program, or collect the deductible or coinsurance.

§ 405.1224 Condition of participation: Policies for the provision of services.

(a) *Condition.* The advisory group of professional personnel appointed by the governing body establishes written policies covering skilled nursing and other therapeutic services and other professional health aspects. These policies are reviewed at least annually and are revised as necessary.

(b) *Standard: Membership of advisory group.* The advisory group of professional personnel includes at least one member who is a practicing physician and one registered nurse, preferably a public health nurse, and representatives from other professional disciplines as indicated by the scope of the agency's program. At least one member of the advisory group is neither an owner nor employee of the agency.

Addendum to § 405.1224(b)

Pursuant to the provisions of section 1863 of title XVIII of the Act (see § 405.1201(c)), there is approved the following higher condition of participation relating to the Advisory

Group of Professional Personnel in those States identified below:

NEW JERSEY

Advisory Group of Professional Personnel—Condition. Policies covering skilled nursing and other therapeutic services, and the professional health aspects of other policies, are established with the approval of and subject to regular review by a group of professional personnel which includes at least three licensed physicians and a registered professional nurse qualified as a public health nurse director or public health nurse supervisor.

Composition of Group. (a) This group might be, for example: (1) An advisory committee to the agency's executive council or board of directors; (2) a subcommittee of such council or board; or (3) other similar arrangement.

(b) Some member or members of the professional group are persons not employed by the agency.

(c) The physician members of the Advisory Group serve as liaison with the County Medical Society and interpret agency medical policies to individual physicians.

(d) It is desirable for the group to include lay persons knowledgeable in health affairs and also to have a wide range of professional representatives such as social worker; nutritionist; speech, physical, and occupational therapists.

(c) *Standard: Written policies.* The advisory group establishes written policies to govern the patient care services provided by the agency. These policies are reviewed at least annually and cover at least the following:

(1) The scope of services offered;

(2) Admission and discharge policies including the types of patient which the home health agency will or will not accept for care;

(3) Medical direction;

(4) Plans of treatment and methods of implementation;

(5) Care of patients in an emergency;

(5) Clinical records;

(7) Administrative records;

(8) Personnel qualifications and responsibilities;

(9) Program evaluation.

(d) *Standard: Responsibilities of advisory group.* The advisory group is readily available to advise the governing body on policy issues and program evaluation. It also assumes responsibility for acquainting physicians, other providers of health care, and the public with the established policies and availability of the range of services of the home health agency. The factors explaining the standard are as follows:

(1) The advisory group meets at regular intervals. Dated minutes indicate that questions relating to the availability and utilization of services are reviewed and recommendations are forwarded to the governing body.

(2) The physician member(s) of the advisory group interpret the established policies to the local medical society and to individual physicians.

(3) The advisory group actively participates in a continuing program to acquaint the community with the available services of the agency and to promote appropriate utilization.

(4) Brochures and pamphlets describing the home health services of the agency are prepared with the advice of the advisory group and are distributed to other community resources and to the general public.

§ 405.1225 Condition of participation: Medical supervision, acceptance of patients, and plan of treatment.

(a) *Condition.* Patients in need of home health services are accepted for treatment in accordance with approved policies and only on the order of a physician. Their care continues under the direction of a physician and follows a written plan of treatment established and periodically reviewed by a physician.

(b) *Standard: Policies governing the acceptance of patients.* There are written policies developed by the professional advisory group which cover categories of patients accepted and not accepted by the home health agency. These are reviewed at least annually, consideration being given to the following factors:

(1) Adequacy and suitability of agency personnel and resources to provide the services required by the patient.

(2) Assessment of medical, nursing, and social information provided by the attending physician, institutional personnel and agency staff.

(3) Attitudes of patient and his family toward care at home for the patient.

(4) Comparative benefit of home care for the patient as distinguished from care in a hospital, extended care facility, or other institution.

(5) Reasonable expectation that patient's medical, nursing, and social needs can be met adequately in the patient's residence, including a plan to meet medical emergencies.

(6) Adequacy of physical facilities in the patient's residence for his proper care.

(7) Availability of family or substitute family member who is able and willing to participate in the patient's care.

(c) *Standard: Plan of treatment.* For each patient there is a plan of treatment established and authorized in writing by the physician based on an evaluation of the patient's immediate and long-term needs. The physician prescribes a planned regimen of patient care which covers medications, treatments, restorative services, diet, special procedures for the health and safety of the patient, activities, and plans for continuing care and discharge. It may be necessary for the physician to refer the patient for service under a plan of treatment which may not be complete until after an evaluation visit. If any modification to the original plan of treatment is required, the physician is consulted for approval and signs or initials the modified plan. The factors explaining the standard are as follows:

(1) The written plan of treatment developed in consultation with the agency staff covers at least the following:

(i) All pertinent diagnoses, including mental status;

(ii) Types of services and equipment required;

(iii) Frequency of visits;

(iv) Prognosis and rehabilitation potential;

(v) Functional limitations resulting from congenital conditions, illness, or injury;

(vi) Activities permitted;

(vii) Dietary requirements;

(viii) Medications and treatments;

(ix) Safety measures to protect patient against accident and injury; and

(x) Instructions for continuing care and discharge.

(2) When therapy services are indicated, the plan of treatment includes the specific procedures and modalities to be used and the amount, frequency, and duration of such services. The plan of treatment is developed jointly by the therapist(s) and the patient's attending physician.

(d) *Standard: Conformance with physicians' drug orders.* All medications administered to patients by agency staff are ordered in writing by the patient's physician. Oral orders and changes in drug orders are given only to a registered nurse, immediately reduced to writing, signed by the nurse and countersigned by the physician. Attention is given by agency staff to all medicines a patient may be taking to prevent ineffective drug therapy or adverse reactions. Significant side effects, drug allergies, and contraindicated medication are reported to the patient's physician.

(e) *Standard: Periodic review of the plan of treatment.* The total plan is reviewed by the attending physician, in consultation with professional personnel of the home health agency at such intervals as the severity of the patient's illness requires, but in every case, at least once every 60 days. The professional staff brings to the attention of the patient's physician any changes that indicate a need for altering the plan of treatment.

§ 405.1226 Condition of participation: skilled nursing service.

(a) *Condition.* The home health agency maintains a qualified staff to provide skilled nursing service in accordance with a physician's written plan of treatment for patients accepted for home health service.

Addendum to § 405.1226(a)

Pursuant to the provisions of section 1863 of title XVIII of the Act (see § 405.1201(c)), there is approved the following higher condition of participation relating to skilled nursing services in those States identified below:

CONNECTICUT

Skilled Nursing Service—Condition. Skilled nursing service is provided by or under the supervision of a public health nursing supervisor currently licensed by the State.

(a) *Professional Nursing Services—Duties.* (The provisions of paragraph (c) of § 405.1226 are applicable.)

(b) *Public Health Nursing Supervisor—Qualifications.* The public health nursing supervisor must have a baccalaureate degree from a university program in nursing approved by the National League for Nursing for public health nursing preparation, and a minimum of 2 years' experience in a public health nursing program under qualified nursing supervision which included supervisory responsibilities.

(c) *Registered Professional Nurse—Qualifications.* (The provisions of paragraph (c) of § 405.1226 are applicable.)

(d) *Public Health Nurse—Qualifications.* (The provisions of paragraph (b)(2) of § 405.1226 are applicable.)

(e) *Practical Nursing—Duties.* (The provisions of paragraph (e) of § 405.1226 are applicable.)

(f) *Practical Nurse—Qualifications.* (The provisions of paragraph (d) of § 405.1226 are applicable.)

MASSACHUSETTS

Skilled Nursing Service—Condition. Skilled nursing service is provided by or under the supervision of a qualified public health nursing director and/or supervisor. (See § 405.1222 regarding qualifications.)

RHODE ISLAND

Skilled Nursing Service—Condition. Skilled nursing service is provided by or under the supervision of a qualified public health nursing supervisor currently licensed by the State.

(a) *Professional Nursing Services—Duties.* (The provisions of paragraph (c) of § 405.1226 are applicable.)

(b) *Public Health Nursing Supervisor—Qualifications.* A public health nursing supervisor is currently licensed to practice professional nursing by the State and has a baccalaureate degree from a university program in nursing approved by the National League for Nursing for public health nursing preparation and preferably with additional academic preparation in supervision and with experience in a public health nursing program under qualified nursing supervision for a minimum of 2 years.

(c) *Registered Professional Nurse—Qualifications.* (The provisions of paragraph (c) of § 405.1226 are applicable.)

(d) *Public Health Nurse—Qualifications.* (The provisions of paragraph (b)(2) of § 405.1226 are applicable.)

(e) *Practical Nursing—Duties.* (The provisions of paragraph (e) of § 405.1226 are applicable.)

(f) *Practical Nurse—Qualifications.* (The provisions of paragraph (d) of § 405.1226 are applicable.)

(b) *Standard: Qualifications of a registered nurse.* Skilled nursing service is provided by or under the supervision of a registered nurse who meets the following qualifications:

(1) Is currently licensed as a registered nurse by the State in which she is practicing, and

(2) Preferably, has completed a baccalaureate degree program approved by the National League for Nursing for public health nursing preparation or post-baccalaureate study which includes content approved by the National League for Nursing for public health nursing preparation.

(c) *Standard: Duties of a registered nurse.* In accordance with a physician's orders for services requiring the competencies of a registered nurse, the registered nurse performs such duties as the following:

(1) Makes the initial evaluation visit when nursing services are required and regularly reevaluates the nursing needs of the patient;

(2) Takes the initiative in developing and implementing the nursing care plans for the patient and assists in revision according to patient needs;

(3) Provides nursing services, treatments, diagnostic and preventive procedures requiring substantial specialized skill; and adequately documents the care given;

(4) Initiates preventive and rehabilitative nursing procedures as appropriate for the patient's care and safety;

(5) Observes signs and symptoms, and records and reports to the physician reaction to treatments, including drugs, and changes in the patient's physical or emotional condition;

(6) Has a continuing responsibility for coordinating services to patients;

(7) Teaches, supervises, and counsels the patient and family members in methods of meeting the nursing care needs and solving other related problems of the patient at home;

(8) Supervises and teaches other nursing service personnel.

(d) *Standard: Qualifications of a practical nurse.* The term "licensed practical nurse" as used in this section is synonymous with "licensed vocational nurse." Practical nursing services are those nursing services provided under the supervision of a registered nurse, by a practical nurse who meets the following qualifications:

(1) Is currently licensed as a practical nurse by the State in which she is practicing, and

(2) Preferably, has had at least 1 year of nursing experience under the supervision of a registered nurse.

(e) *Standard: Practical nurse duties.* The practical nurse performs such duties as the following:

(1) Observes, records, and reports to supervisor on the general physical and emotional conditions of the patient;

(2) Administers prescribed medications and treatments as permitted by State or local regulations;

(3) Assists the physician and/or registered nurse in performing specialized procedures;

(4) Prepares equipment for treatments, including sterilization, observing aseptic techniques; and

(5) Assists the patient in learning appropriate self-care techniques.

(f) *Standard: Student nurse services.* Student nurse services are nursing services which under State law may be legally performed by a student nurse who meets the following qualifications:

(1) Is enrolled in a diploma or baccalaureate degree nurse educational program approved by the National League for Nursing or other accrediting bodies recognized by the U.S. Office of Education; and

(2) Is enrolled in a nurse educational program in which the home health agency participates; and

(3) Works under the supervision of a registered nurse who is either an employee of the home health agency or the school of nursing in which the student is enrolled.

§ 405.1227 Condition of participation: Occupational therapy.

(a) *Condition.* When an agency provides or arranges for occupational therapy services, service is given by a qualified occupational therapist, or, if by an occupational therapy assistant, under the general supervision of a qualified occupational therapist and in accordance with a physician's written orders.

(b) *Standard: Qualifications of an occupational therapist and occupational therapy assistant.* Occupational therapy services are provided by:

(1) An occupational therapist who is currently registered by the American Occupational Therapy Association; or

(2) An occupational therapy assistant who is currently certified by the American Occupational Therapy Association.

(c) *Standard: Duties of an occupational therapist.* The occupational therapist performs such duties as the following:

(1) Assists the physician in his evaluation of the patient's level of function by applying diagnostic and prognostic tests and by reporting the findings in terms of problems and abilities of the patient;

(2) Helps develop and implement the patient care plan based on problems found and goals established, and assists in revision according to patient need;

(3) Guides the patient in his use of activities to alleviate problems and to improve function;

(4) Observes, records, and reports to the physician and the agency the patient's reaction to treatment and any changes in the patient's condition;

(5) Instructs other health team personnel including, when appropriate, home health aides and family members in certain phases of occupational therapy in which they may work with the patient;

(6) Supervises the occupational therapy assistant and, when appropriate, the home health aide;

(7) Participates in inservice education programs for all staff;

(8) Acts as a consultant to other agency personnel.

§ 405.1228 Condition of participation: Speech therapy.

(a) *Condition.* When an agency provides or arranges for services in speech pathology and/or audiology, service is given by or under the direct supervision of a qualified speech therapist and in accordance with a physician's written orders.

(b) *Standard: Qualifications of a speech therapist.* Speech pathology and/or audiology services are provided by a speech therapist who meets the following qualifications:

(1) Has been granted a Certificate of Clinical Competence in the appropriate area (speech pathology or audiology) by the American Speech and Hearing Association; or

(2) Meets the equivalent educational requirements and work experience necessary for such certificate; or

(3) Has completed the academic and practicum requirements for certification and is in the process of accumulating the supervised work experience required for certification.

(c) *Standard: Duties of a speech therapist.* The speech pathologist or audiologist performs such duties as the following:

(1) Cooperates with the physician in the evaluation of patients with speech, hearing, or language disorders;

(2) On the basis of orders by the physician who indicates anticipated goals and is responsible for general medical direction of such service as a part of the total care of the patient, determines and recommends appropriate speech and hearing services;

(3) Provides rehabilitative services for speech, hearing, and language disorders;

(4) Observes, records, and reports to the physician and the agency the patient's reaction to treatment and any changes in the patient's condition;

(5) Instructs other health team personnel and family members in methods of assisting the patient to improve and correct speech, hearing, and language disabilities;

(6) Participates in in-service education programs for all staff;

(7) Acts as a consultant to other agency personnel.

§ 405.1229 Condition of participation: Physical therapy.

(a) *Condition.* When an agency provides or arranges for physical therapy services, service is given by or under the direct supervision of a qualified physical therapist, or if by a physical therapist assistant, under the general supervision of a qualified physical therapist and in accordance with a physician's written orders.

(b) *Physical therapist: Qualifications.* A physical therapist:

(1) Has graduated from a physical therapy curriculum approved by—

(i) The American Physical Therapy Association; or

(ii) The Council on Medical Education and Hospitals of the American Medical Association; or

(iii) The Council on Medical Education of the American Medical Association in collaboration with the American Physical Therapy Association; or

(2) Prior to January 1, 1966—

(i) Has been admitted to membership by the American Physical Therapy Association; or

(ii) Has been admitted to registration by the American Registry of Physical Therapists; or

(iii) Has graduated from a physical therapy curriculum in a 4-year college or university approved by a State department of education, is licensed or registered as a physical therapist, and where appropriate, has passed a State examination for licensure as a physical therapist; or

(3) If currently licensed or registered to practice physical therapy pursuant to State law:

(i) Was licensed or registered prior to January 1, 1970, and has achieved a satisfactory grade through the examination conducted by or under the sponsorship of the Public Health Service; or

(ii) Was licensed or registered prior to January 1, 1966, and prior to January 1, 1970, had 15 years of full-time experience in the treatment of illness or injury through the practice of physical therapy in which he rendered services upon the order of and under the direction of attending and referring physicians; or

(4) If trained outside the United States—

(i) Has graduated since 1928 from a physical therapy curriculum approved in the country in which the curriculum was located and in which there is a member organization of the World Confederation for Physical Therapy; and

(ii) Is a member of a member organization of the World Confederation for Physical Therapy; and

(iii) Has completed 1 year's experience under the supervision of an active member of the American Physical Therapy Association; and

(iv) Has successfully completed a qualifying examination as prescribed by the American Physical Therapy Association.

(c) *Standard: Qualifications of a physical therapist assistant.* A qualified physical therapist assistant has graduated from a 2-year college level program approved by the American Physical Therapy Association; and where appropriate is licensed or certified as a physical therapist assistant.

(d) *Standard: Duties of a physical therapist.* The physical therapist performs such duties as the following:

(1) Assists the physician in his evaluation of patients by applying muscle, nerve, joint, and functional ability tests;

(2) In collaboration with the physician helps develop a physical therapy plan based on the evaluation and the goals established;

(3) Helps develop, implement, and adjust with other agency personnel and the physician, patient-care plans for total patient care, including and considering patient goals;

(4) Treats patients to relieve pain, develop or restore function, and maintain maximum performance, using physical means, such as exercise, massage, heat, water, light, and electricity, for example:

(i) Directs and aids patients in active and passive exercises, muscle reeducation, and gait and functional training, activities of daily living including transfer activities, and prosthetic training;

(ii) Makes use of equipment such as ultraviolet and infrared lamps, low voltage generators, diathermy, and ultrasonic machines;

(iii) Gives whirlpool and contrast baths, and applies moist packs.

(5) Delegates to the physical therapist assistant selected physical therapy care programs, or portions thereof, and provides supervision on a planned basis frequently enough to assure adequate review of treatment rendered to individual patients;

(6) Assists the physician, patient, and family in the selection of, and instructs the patients in the care and use of wheelchairs, braces, canes, crutches, prosthetic and orthotic devices, and makes recommendations concerning environmental adaptations;

(7) Observes, records, and reports to the physician and the agency the patient's reaction to treatment and any changes in the patient's condition;

(8) Instructs other health team personnel including, when appropriate, home health aides and family members, in certain phases of physical therapy with which they may work with the patients;

(9) Instructs family on patient's total physical therapy program;

(10) Participates in in-service education programs for all staff;

(11) Acts as a consultant to other agency personnel.

(e) *Standard: Duties of a physical therapist assistant.* A physical therapist assistant:

(1) Carries out physical therapy patient-care programs, or portions thereof, as planned, delegated, and supervised by the physical therapist, such as the following:

(i) Follows established procedures and observes safety precautions in the application and use of physical modalities and procedures as described in paragraph (d)(4) of this section;

(ii) Trains the patient in predetermined exercises such as correct body alinement and body mechanics and resistive exercises with equipment;

(iii) Trains the patient in balance activities and gait patterns;

(iv) Trains the patient in activities of daily living such as wheelchair transfer, and self-care activities.

(2) Instructs the patient and family in the use and care of braces, prostheses, and bandages;

(3) Observes, records, and reports to the supervising physical therapist the patient's reaction to treatment and any changes in the patient's condition.

(4) Acts as an assistant to the physical therapist when the physical therapist is performing tests, evaluations, and complex treatment procedures.

§ 405.1230 Condition of participation: Medical social services.

(a) *Condition.* When an agency employs or arranges for medical social services, services are given by or under the supervision of a qualified social worker, and under the direction of a physician and in accordance with a physician's written orders.

(b) *Standard: Qualifications of a social worker and social work assistant.* Medical social services are provided by:

(1) A social worker who has a master's degree from a graduate school of social work accredited by the Council on Social Work Education and has had social work experience in a health care setting, such as a hospital, outpatient clinic, medical rehabilitation facility, medical care, or mental health program.

(2) A social work assistant who has a baccalaureate degree is provided on-the-job training in social service tasks and assignments by the agency; and works

under the supervision of a social worker.

(c) *Standard: Duties.* Medical social service functions include such duties as the following:

(1) Assessing the social and emotional factors in order to estimate the patient's capacity and potential to cope with problems of daily living;

(2) Assisting the physician and other members of the health team in understanding the significant social and emotional factors related to the patient's health problems and participating in development of the patient care plan;

(3) Helping the patient and his family to understand, accept, and follow medical recommendations and providing services that are planned to restore the patient to optimum social and health adjustment within his capacity;

(4) Assisting the patient and his family with personal, emotional, and environmental difficulties which predispose toward illness or interfere with obtaining maximum benefits from health care;

(5) Utilizing resources, such as family and community agencies, to assist the patient to resume life in the community and to learn to live within his maximum capacity;

(6) Participating in alternative and appropriate discharge planning;

(7) Maintains complete records of services performed;

(8) Acts as a consultant to other agency personnel.

§ 405.1231 Condition of participation: Home health aide services.

(a) *Condition.* When a home health agency provides home health aide services, the home health aides are selected, trained assigned, and supervised in accordance with written policies to assure their competence in providing care.

(b) *Standard: Selection.* The following abilities and attitudes are considered in the selection of each aide:

(1) Interest in and sympathetic attitude toward caring for the sick at home;

(2) Ability to read and write;

(3) Ability to understand and carry out direction or instruction;

(4) Ability to record messages and maintain simple records;

(5) Emotional and mental maturity; and ability to cope with the physical demands of the job.

(c) *Standard: Training.* The training program for home health aides follows a written plan covering at least the following:

(1) Basic training by a registered nurse (preferably a public health nurse) with involvement of physicians; physical, speech, and occupational therapists; social workers; nutritionists; and other appropriate health personnel in the indicated aspects of the training program covering at least the following:

(i) The role of the home health aide as a member of the health services team;

(ii) Methods of assisting patients to achieve maximum self-reliance through relearning and modifying activities of daily living;

(iii) Principles of good nutrition and nutritional problems of the sick and elderly;

(iv) Meal planning, food purchasing, and preparation of meals including special diets;

(v) The process of aging and behavior of the aged;

(vi) The emotional problems accompanying illness;

(vii) Principles and practices in maintaining a clean, healthful, and safe environment as well as a pleasant one that encourages morale building and self-help;

(viii) The type of information that should be reported to the nurse supervisor in the home health agency, including changes in the patient's condition or family situation; and

(ix) Recordkeeping.

(2) Orientation to the agency's program which includes:

(i) Policies and objectives of the agency;

(ii) The functions of other health personnel employed by the agency and the interrelationships of such personnel in caring for the patient;

(iii) Information about other community agencies; and

(iv) Ethics and confidentiality.

(3) Training on the job which includes instruction in the home setting for carrying out procedures and developing competency.

Addendum to § 405.1231(c)

Pursuant to the provisions of section 1863 of title XVIII of the Act (see § 405.1201(c)), there is approved the following higher condition of participation relating to training of home health aides in those States identified below:

CONNECTICUT

Training of Home Health Aides.—Condition. The home health agency determines that home health aides receive or have received a basic training program for home health aides approved by the Connecticut State Department of Health.

(d) *Standard: Assignment.* A registered nurse assigns the home health aide to a particular patient in accordance with the physician's plan of treatment and decides which personal care services are to be given. In addition, the registered nurse prepares written instructions for the home health aide, taking into consideration the abilities of the home health aide, the amount and kind of supervision needed, the specific needs of the patient, and the resources of the patient's family. The home health aide performs such duties as the following:

(1) Helping patient with bath, care of mouth, skin, and hair;

(2) Helping patient to bathroom or in using bedpan;

(3) Helping patient in and out of bed and assisting with ambulation;

(4) Helping patient with prescribed exercises and self-occupying tasks which the patient and home health aide have been taught by appropriate professional personnel;

(5) Assisting with medications, ordinarily self-administered, that have been specifically ordered by a physician;

(6) Performing such incidental household services as are essential to the patient's health care at home (unless the place of residence is an institution);

(7) Reporting to the registered nurse supervisor changes in the patient's condition or family situation and completing appropriate records.

(e) *Standard: Supervision.* (1) The registered nurse supervisor provides direct supervision as necessary and at other times is readily available by telephone to provide advice. The supervisor evaluates the home health aide in terms of the aide's ability to carry out assigned duties, to relate well to the homebound patient, and to work effectively as a member of a team of health workers.

(2) When the home health aide performs personal care in conjunction with skilled nursing services or simple procedures as an extension of physical, speech, or occupational therapy or social service, training and supervision are provided by the appropriate member of the professional staff on a regularly recurring basis and frequently enough to assure sufficient review of individual treatment plans and progress.

(3) A supervisory visit is made to the patient's home at least every 2 weeks by the appropriate member of the professional staff, either at a time when the aide is present in order to observe and assist her, or when the aide is absent in order to assess relationships established and to determine whether the services being given are accomplishing the goals of the plan of treatment.

Addendum to § 405.1231(e)

Pursuant to the provisions of section 1863 of title XVIII of the Act (see § 405.1201(c)), there is approved the following higher condition of participation relating to the training of home health aides in those States identified below:

MASSACHUSETTS

Supervision of Home Health Aides—condition. The qualified nursing supervisor should provide direct supervision as necessary and is readily available at other times by telephone. The supervisor should be constantly evaluating the home health aide in terms of the aide's ability to carry out assigned duties, to relate well to the homebound patient, and to work effectively as a member of a team of health workers.

§ 405.1232 Condition of participation: Clinical records.

(a) *Condition.* A clinical record is maintained in accordance with accepted professional principles for each patient receiving home health service.

(b) *Standard: Maintenance of clinical records.* The home health agency maintains a clinical record for each patient with current entries, dated and signed. The record documents implementation of the plan of treatment and includes:

(1) Admission date:

(i) Identifying information: Name, address, date of birth, sex, agency case number, if any, social security number, and next of kin;

(ii) Whether the home health service is (*a*) posthospital, (*b*) postextended care facility, or (*c*) neither; and names of institutions and dates of discharge for (*a*) and (*b*) of this subdivision;

(iii) Date of admission for home health services;

(iv) Physician responsible for patient's care.

(2) Diagnoses: All conditions which the patient has with specific reference to those relevant to the plan of treatment.

(3) Prognosis, including statement of goals set for the patient.

(4) Clinical notes by all professionals showing dates that services were rendered:

(i) Nursing services: Level needed and frequency of visits; special care (dressing changes, catheter changes, etc.), observations, including specific observations to be brought to the immediate attention of the physician.

(ii) Drugs: Type, dose, and frequency of each drug; caution concerning special side effects, drug allergies and reactions, and nonprescription remedies.

(iii) Diet: Regular or therapeutic, including specific modifications required.

(iv) Activity: Degree allowed, e.g., bedrest with bathroom privileges.

(v) Rehabilitation plan: Activities of daily living, etc.

(vi) Occupational, speech, and physical therapy; modalities and procedures used, and results of tests and measurements.

(vii) Medical social services.

(viii) Home health aide services.

(ix) Medical supplies: Special dressings needed, oxygen, etc.

(x) Medical appliances: Special devices needed, e.g., crutches, oxygen tent etc.

(5) Progress notes, including services to patients provided by contract, are submitted at least monthly by appropriate professional personnel.

(6) Discharge summary: When home health services are terminated, the record shows the date, reason for termination, and the condition of the patient.

(c) *Standard: Retention of records.* All clinical records of discharged patients are completed promptly and are filed and retained in accordance with State law or for 5 years in the absence of a State statute.

(1) The home health agency has policies providing for the retention and safekeeping of patients' clinical records by the governing body for the required period of time at such time as the home health agency discontinues operation.

(2) If the patient is transferred to another health care facility, a copy of the patient's clinical record and patient care plan or an abstract thereof accompanies the patient.

(d) *Standard: Confidentiality of records.* All information contained in the clinical records is treated as confidential and is disclosed only to authorized persons.

§ 405.1233 Condition of participation: Evaluation.

(a) *Condition.* The home health agency has written policies and procedures, which provide for a systematic evaluation of its total program at appropriate intervals in order to assure the appropriate utilization of services.

(b) *Standard: Overall policy review.* The method of program evaluation includes mechanisms for reviewing the overall policy and management aspects of the program to assure economy and efficiency of operation. Procedures provide for systematic evaluation of its program at least once a year, either by a subcommittee of the governing body or by the governing body as a whole. Some staff members serve as ex-officio members of the evaluation committee. There is substantial consumer participation in program evaluation, through planned and continuous mechanisms appropriate to the particular agency to determine whether the agency adequately serves the community.

(c) *Standard: Record review.* Measures to assure that established policies are followed in providing services to patients either directly or under arrangements with others include:

(1) A quarterly review of patient's clinical records on a sample basis to determine:

(i) Whether services are being used appropriately, and

(ii) The extent to which the needs of individual patients are met, both qualitatively and quantitatively; and

(iii) Whether each plan of treatment is adequately described, approved by the patient's physician, and reviewed by him at least every 60 days.

(2) A review of patient's clinical records for all patients receiving care for 60 days or longer.

(3) The reviews referred to in subparagraphs (1) and (2) of this paragraph are conducted by the professional advisory group or a subdivision of the group with staff members serving ex-officio or, if by a community utilization review committee, that committee's findings are reported to the professional advisory group. In either situation, committee findings are reported to the governing body.

(4) An annual evaluation is made of such statistical data as the following:

(i) The number of different patients who received service;

(ii) The number of patients visits;

(iii) The condition on discharge;

(iv) The number of new patients;

(v) The number of patients by diagnosis;

(vi) The sources of referral;

(vii) The total staff days or manhours.

(d) *Standard: Records of evaluation.* Records and findings of these evaluations are discussed with agency staff and cooperating agencies for the purpose of improving agency performance. Records of evaluation are maintained separately from the patient clinical records, and are retained as a confidential agency record.

[FR Doc.71-13786 Filed 9-17-71;8:50 am]