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Latest Edition

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[Revised as of January 1, 1971]

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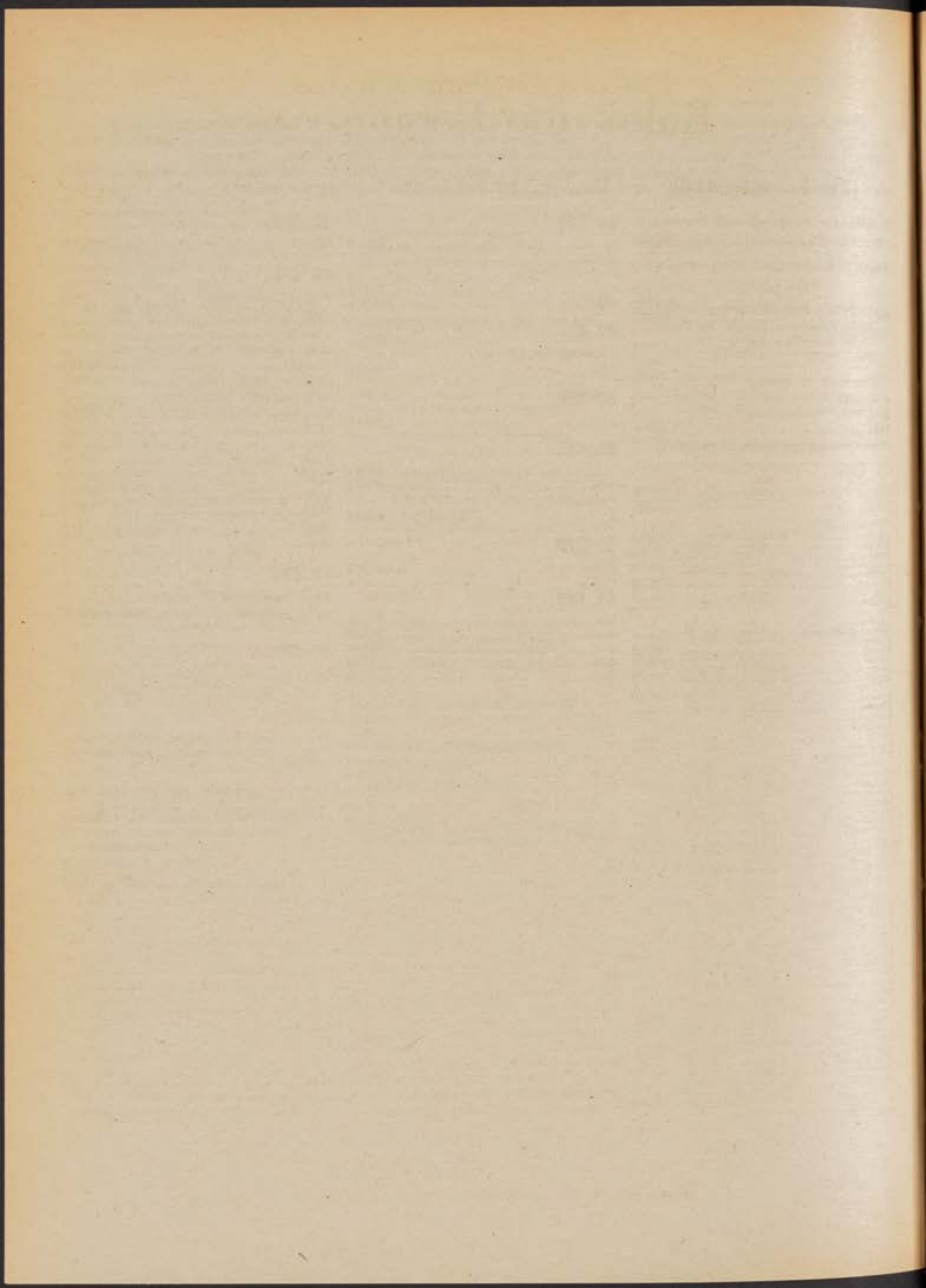

Rules and Regulations

Title 7—AGRICULTURE

Chapter II—Food and Nutrition Service, Department of Agriculture

PART 215—SPECIAL MILK PROGRAM FOR CHILDREN

Appendix—Apportionment of Special Milk Program Funds Pursuant to Child Nutrition Act of 1966, Fiscal Year 1972

Pursuant to section 3 of the Child Nutrition Act of 1966, as amended, milk assistance funds available for the fiscal year ending June 30, 1972, are apportioned among the States as follows:

State	Total apportionment	State agency	Withheld for private schools
Alabama	$1,864,820	$1,788,721	$76,099
Alaska	40,014	40,014	
Arizona	475,788	475,788	
Arkansas	1,152,565	1,098,266	54,299
California	8,114,372	8,114,372	
Colorado	1,029,996	943,233	86,763
Connecticut	1,904,273	1,904,273	
Delaware	298,593	298,593	
Del. Dept. of Adm. Services	17,020	17,020	
District of Columbia	577,202	577,202	
Florida	1,579,584	1,579,584	
Georgia	1,199,651	1,164,893	34,758
Hawaii	107,027	72,022	35,005
Idaho	193,451	168,910	24,541
Illinois	6,611,909	6,611,909	
Indiana	2,969,979	2,969,979	
Iowa	1,352,160	1,213,027	139,133
Kansas	1,048,534	1,048,534	
Kentucky	2,027,079	2,027,079	
Louisiana	432,371	432,371	
Maine	567,622	494,540	73,082
Maryland	2,482,908	2,482,908	
Md. Dept. Gen. Services	65,852	65,852	
Massachusetts	3,788,773	3,788,773	
Michigan	6,110,618	5,172,575	938,043
Minnesota	2,829,560	2,829,560	
Mississippi	1,071,127	1,071,127	
Missouri	2,310,155	2,261,599	48,556
Montana	224,161	197,020	27,141
Nebraska	618,333	516,692	101,641
Nevada	176,007	154,827	21,180
New Hampshire	556,769	486,177	70,592
New Jersey	3,569,059	2,957,226	611,833
New Mexico	692,064	382,747	309,317
New York	9,778,095	9,778,095	
N.Y. Off. Gen. Services	412,308	412,308	
North Carolina	3,029,848	3,029,848	
North Dakota	374,715	336,997	37,718
Ohio	7,028,266	6,227,934	800,332
Ohio Dept. Pub. Wel.	181,947	181,947	
Oklahoma	1,008,603	1,008,603	
Oregon	598,045	571,427	26,618
Pennsylvania	5,579,361	4,933,021	646,340
Rhode Island	602,077	602,077	
South Carolina	629,828	538,296	91,532
South Dakota	355,398	355,398	
Tennessee	1,744,484	1,659,187	85,297
Texas	3,847,936	3,554,797	293,139
Utah	331,785	327,648	4,137
Vermont	317,691	303,386	14,305
Virginia	2,005,842	1,844,710	161,132
Washington	1,235,977	1,044,441	191,536
West Virginia	1,095,471	1,057,000	38,471
Wisconsin	3,909,568	3,235,147	674,421
Wyoming	124,519	124,519	
Total	102,251,160	96,534,199	5,716,961

(Secs. 2, 3, 6, and 8–16, 80 Stat. 885–890; 42 U.S.C. 1771, 1772, 1775, 1777–1785)

Dated: October 18, 1971.

EDWARD J. HEKMAN,
Administrator.

[FR Doc.71-15415 Filed 10-22-71;8:45 am]

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

[Lemon Reg. 504]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.804 Lemon Regulation 504.

(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 October 19, 1971.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period October 24 through October 31, 1971, is hereby fixed at 160,000 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: October 22, 1971.

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

[FR Doc.71-15602 Filed 10-22-71;8:51 am]

PART 982—HANDLING OF FILBERTS GROWN IN OREGON AND WASHINGTON

Expenses of the Filbert Control Board and Rate of Assessment for the 1971–72 Fiscal Year

Notice was published in the October 6, 1971, issue of the FEDERAL REGISTER (36 F.R. 19442) regarding proposed expenses of the Filbert Control Board for the 1971–72 fiscal year and rate of assessment for that fiscal year, pursuant to §§ 982.60 and 982.61 of the marketing agreement, as amended, and Order No. 982, as amended (7 CFR Part 982), regulating the handling of filberts grown in Oregon and Washington. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The notice afforded interested persons an opportunity to submit written data, views, or arguments with respect to the proposal. None were received within the prescribed time.

After consideration of all relevant matter presented, including that in the notice, the information and recommendation submitted by the Filbert Control Board, and other available information,

it is found that the expenses of the Filbert Control Board and rate of assessment for the fiscal year beginning August 1, 1971, shall be as follows:

§ 982.316 Expenses of the Filbert Control Board and rate of assessment for the 1971–72 fiscal year.

(a) *Expenses.* Expenses in the amount of $29,400 are reasonable and likely to be incurred by the Filbert Control Board during the fiscal year beginning August 1, 1971, for its maintenance and functioning and for such purposes as the Secretary may, pursuant to the provisions of this part, determine to be appropriate.

(b) *Rate of assessment.* The rate of assessment for said fiscal year, payable by each handler in accordance with § 982.61, is fixed at 0.20 cent per pound of filberts.

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) The relevant provisions of said marketing agreement and this part require that the rate of assessment fixed for a particular fiscal year shall be applicable to all assessable filberts from the beginning of such year; and (2) the current fiscal year began on August 1, 1971, and the rate of assessment herein fixed will automatically apply to all such assessable filberts beginning with that date.

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

Dated: October 20, 1971.

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

[FR Doc.71-15503 Filed 10-22-71;8:50 am]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

[Rel. Nos. IC-6748, 34-9250]

PART 249—ANNUAL REPORT OF REGISTERED MANAGEMENT INVESTMENT COMPANY UNDER THE INVESTMENT COMPANY ACT OF 1940 AND SECURITIES EXCHANGE ACT OF 1934

PART 274—ANNUAL REPORT OF REGISTERED MANAGEMENT INVESTMENT COMPANY UNDER THE INVESTMENT COMPANY ACT OF 1940 AND THE SECURITIES EXCHANGE ACT OF 1934

Annual Report Form N–1R for Management Investment Companies to Reflect Changes in Reporting

On May 14, 1971, in Investment Company Act release No. 6522, and in the FEDERAL REGISTER of May 27, 1971 (36 F.R. 9668), the Securities and Exchange Commission published notice that it had under consideration the adoption of a revision of Form N–1R (17 CFR 249.330, 274.101) and EDP attachments thereto (17 CFR 274.101a–1, 274.101a–2) for annual reports filed with the Commission by most registered management investment companies pursuant to section 30 of the Investment Company Act of 1940 (Act) (15 U.S.C. 80a–29) and section 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m, 78*o*(d)). In that notice the Commission invited all interested persons to submit views and comments upon the proposal. The Commission has considered the written comments received and has determined to adopt the proposal, with certain modifications, in the form set forth herein.

Pursuant to the proposal, certain items of Form N–1R and the EDP attachments to the form have been revised to reflect changes in reporting consistent with changes made in the Act by the Investment Company Amendments Act of 1970, Public Law 91–547 (84 Stat. 1413) (1970 Act), enacted December 14, 1970. Some of the changes in the Act became effective upon the enactment of the 1970 Act. Other changes, such as the new term "interested person," defined in a new paragraph (19) in section 2(a) of the Act (15 U.S.C. 80a–2(a)(19), 84 Stat. 1413), will be effective in various sections of the act on December 14, 1971, 1 year from the date of enactment.

Annual reports on Form N–1R for any fiscal year beginning before, and ending after, December 14, 1971, will involve the reporting, in some of the items, of information relating to the requirements of the Act before and after the effective date of certain amendments of the Act. The primary purposes of the revision of the form are to effect changes in the items consistent with the amendments to the Act and to provide a means of reporting information for the fiscal year within which the amendments become effective. To accomplish this, there has been adopted, in addition to the revision of items of the form, a general instruction applicable only to the annual report for the 1 fiscal year of each registrant beginning before, and ending after, December 14, 1971.

The text of the new general instructions to Form N–1R and the text of the proposed revision of the items of Form N–1R with the new matter and deleted matter is set forth in release No. IC–6748, copies of which have been filed with the Office of the Federal Register.[1] Copies of the release may be obtained on request from the Securities and Exchange Commission, Washington, D.C. 20549.

Commission action:

The Commission, acting pursuant to sections 30, 31, 38, and 45(a) of the Act and sections 13, 15(d), and 23(a) of the Securities Exchange Act of 1934, and deeming it necessary to the functions vested in it, and necessary and appropriate in the public interest and for the protection of investors, hereby adopts the above revisions of Form N–1R, including the EDP attachments, effective for all fiscal years ending on and after December 31, 1971.

There will be no changes in §§ 249.330, 274.101, 274.101a–1, 274.101a–2.

When printing of the entire Form N–1R and attachments as revised has been completed, copies will be mailed to all registered investment companies and made available to other persons upon request.

(Sec. 30, 54 Stat. 836, 15 U.S.C. 80a–29; sec. 31, 54 Stat. 838, 15 U.S.C. 80a–3o; sec. 38, 54 Stat. 841, 15 U.S.C. 80a–37; sec. 45, 54 Stat. 845, 15 U.S.C. 80a–44; sec. 13, 48 Stat. 849, 15 U.S.C. 78m; sec. 15, 48 Stat. 895, 15 U.S.C. 78o; sec. 23, 48 Stat. 901, 15 U.S.C. 78w, Public Law 91–547, 84 Stat. 1413)

By the Commission, October 7, 1971.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.71-15473 Filed 10-22-71;8:48 am]

[1] Filed as part of the original document.

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

Open Season

Correction

In F.R. Doc. 71–15258 appearing on page 20220 in the issue of Tuesday, October 19, 1971, the first sentence should read as follows: "By virtue of the authority vested in the U.S. Civil Service Commission by 5 U.S.C. sec. 8913 and in accordance with 5 U.S.C. sec. 553 (b)(B) and (d)(3) for good cause found and stated herein, § 890.301(d) of the health benefits regulations is hereby amended to provide for an extension of the 1971 health benefits open season through December 31, 1971."

TITLE 24—HOUSING AND HOUSING CREDIT

Subtitle A—Office of the Secretary, Department of Housing and Urban Development

[Docket No. R–71–147]

PART 71—FAIR HOUSING

Complaint Procedures

The purpose of these regulations is to set forth the procedures established by the Assistant Secretary for Equal Opportunity for carrying out his responsibility with respect to complaints filed under title VIII of the Civil Rights Act of 1968.

Notice of a proposed amendment to Part 71 of Title 24 of the Code of Federal Regulations was published in the FEDERAL REGISTER on February 10, 1971 (36 F.R. 2786). Comments were received

from interested persons and consideration has been given to each comment. The principal changes are set forth below.

Section 71.15 now clarifies the requirements for verification of complaint documents and the use of a prescribed form. The majority of complaints received are not notarized but are sworn to before a HUD investigator. The section now states specifically that letters detailing alleged discriminatory acts are accepted as complaints.

In § 71.16 paragraphs (b), (c), and (d) have been altered to make them consistent with the fact that only the complainant may demand a right to sue letter.

Possible ambiguity as to who serves the respondent with pleadings is eliminated by adding to § 71.17 the phrase "by Department representatives."

Section 71.18 now reflects the fact that there will be standards of referral to State and local fair housing authorities. One of the comments recommended that notice to a State be served by certified mail. A change incorporating this comment has been made.

Proposed paragraph (b) of § 71.20 has been deleted in order to eliminate a restrictive interpretation of HUD's power to reactivate complaints.

Various comments objected to the proposed elimination of existing paragraph (e) of § 71.21, which permits either party to request reconsideration of HUD's initial determination whether to proceed with a complaint. This paragraph (e) is being retained.

Accordingly, Title 24 is amended by revising Part 71 to read as follows:

Subpart A—Purpose and Definitions

Sec.
71.1 Purpose.
71.2 Definitions.

Subpart B—Procedures for Enforcement of Complaints Against Discriminatory Housing Practices

71.11 Submission of information.
71.12 Complaints to be filed by persons aggrieved.
71.13 Where to file complaints.
71.14 Contents of complaint.
71.15 Form of complaint; amendments.
71.16 Date of filing of complaint; when notice issues.
71.17 Service of complaint; filing of answers.
71.18 Referrals to State or local fair housing agencies.
71.19 Suspension of proceedings.
71.20 Reactivation of referred complaints.
71.21 Investigation and decision to resolve.
71.22 Subpoenas, interrogatories, and investigative powers.

Subpart C—Procedures to Rectify Discriminatory Housing Practices

71.31 Conference, conciliation, and persuasion.
71.32 Conciliation agreements.
71.33 Inability to obtain voluntary compliance.
71.34 Notification where voluntary compliance is not obtained.
71.35 Confidentiality of conciliation conferences.
71.36 Other action by the Assistant Secretary.

APPENDIX—LIST OF DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT REGIONAL OFFICES AND JURISDICTIONAL AREAS

AUTHORITY: The provisions of this Part 71 issued under 82 Stat. 81–89, 79 Stat. 669; 42 U.S.C. 3601–3619; 42 U.S.C. 3535(d).

Subpart A—Purpose and Definitions

§ 71.1 Purpose.

(a) The regulations set forth in this part contain the procedures established by the Assistant Secretary for Equal Opportunity in the Department of Housing and Urban Development for carrying out his responsibility with respect to any complaint filed with him under section 810 of title VIII of the Civil Rights Act of 1968, Public Law 90–284, 42 U.S.C. 3610.

(b) Where a person charged with a discriminatory housing practice in a complaint filed under section 810 of title VIII is also prohibited from engaging in similar practices under title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d—2000d-5, or Executive Order 11063 of November 20, 1962, on Equal Opportunity in Housing (27 F.R. 11527–30, November 24, 1962) or other applicable law, such person may also be subject to action by the Department of Housing and Urban Development or other Federal agency under the rules, regulations, and procedures prescribed from time to time pursuant to title VI or Executive Order 11063 or other applicable law.

§ 71.2 Definitions.

As used in this part,

(a) "Assistant Secretary" means the Assistant Secretary for Equal Opportunity in the Department of Housing and Urban Development.

(b) "Department" means Department of Housing and Urban Development.

(c) "Discriminatory housing practice" means an act that is unlawful under section 804, 805, or 806 of title VIII.

(d) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, or any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

(e) "Family" includes a single individual.

(f) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.

(g) "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or any of the territories and possessions of the United States.

(h) "Title VIII" means title VIII of the Civil Rights Act of 1968, Public Law 90–284, 42 U.S.C. 3601–3619.

(i) "To rent" includes to lease, to sublease, to let, and otherwise to grant for consideration the right to occupy premises not owned by the occupant.

Subpart B—Procedures for Enforcement of Complaints Against Discriminatory Housing Practices

§ 71.11 Submission of information.

The Assistant Secretary will receive information concerning alleged violations of title VIII from any person. Where the information constitutes a complaint within the meaning of title VIII and this part, it shall be so recorded under § 71.16. Where additional information is required for purposes of perfecting a complaint under title VIII, the Department will promptly advise what additional information is needed and will provide appropriate assistance in the filing of such complaint. At the same time, if the information disclosed so warrants, appropriate enforcement procedures may be initiated by the Department under E.O. 11063 on Equal Opportunity in Housing or title VI of the Civil Rights Act of 1964, and the information may also be referred to any other Federal, State, or local agency having an interest in the matter.

§ 71.12 Complaints to be filed by persons aggrieved.

Any person who claims to have been injured by a discriminatory housing practice or who believes that he will be irrevocably injured by a discriminatory housing practice that is about to occur (in this part called "person aggrieved") may file a complaint no later than 180 days after the alleged discriminatory housing practice occurred. Such complaint may be filed with the assistance of an authorized representative of the person aggrieved, including any organization acting on behalf of the person aggrieved.

§ 71.13 Where to file complaints.

Complaints may be filed by mail with Fair Housing, Department of Housing and Urban Development, Washington, D.C. 20410, or any regional, area, or FHA Insuring Office of the Department. Complaints will be processed through the Department's Regional Administrator having jurisdiction in the State in which the alleged discriminatory housing practice occurred or is about to occur. A list of Department Regional Offices with their addresses and areas of jurisdiction appears as an appendix to this part.

§ 71.14 Contents of complaint.

Each complaint should contain substantially the following information:

(a) The name and address of the person aggrieved.

(b) The name and address of the person against whom the complaint is filed ("respondent").

(c) A description and the address of the dwelling, which involves the alleged discriminatory housing practice.

(d) A concise statement of the facts, including pertinent dates, constituting the alleged discrimatory housing practice.

§ 71.15 Form of complaint; amendments.

Each complaint shall be in writing and signed, and shall be sworn to before a notary public, or sworn to before a duly authorized representative of the Assistant Secretary. Such attestation may be made at the time of the investigation. The Assistant Secretary may also require complaints to be made on prescribed forms. Complaint forms shall be available to all persons in any regional, area, or FHA Insuring Office of the Department. Appropriate assistance in filling out forms and in filing a complaint will be rendered by personnel in any of such offices. Complaints may be reasonably and fairly amended at any time. Notwithstanding the use of the prescribed form, any written statement which substantially sets forth the allegations of a discriminatory housing practice will be accepted as a title VIII complaint.

§ 71.16 Date of filing of complaint; when notice issues.

(a) For purposes of section 810(d) of title VIII, a complaint shall be considered to be filed when it is received in such form as is found reasonably to meet the standards of §§ 71.14 and 71.15. The person aggrieved shall be notified of the date of filing and of his right to bring court action under sections 810 and 812. The 30 days provided in section 810(d) of title VIII within which a civil action may be commenced shall be deemed to begin with the receipt by the complainant of a notice from the Assistant Secretary that he does not intend to resolve the complaint or he is terminating his efforts to conciliate the matter.

(b) At any time after the expiration of 30 days from the date of the filing of a complaint, or upon dismissal of the complaint at any stage of the proceedings, the complainant may demand in writing that a notice of the occurrence of either of such events issue pursuant to section 810(d) of title VIII, and the Assistant Secretary shall promptly issue such notice, with copies to all parties. The complainant shall be advised by certified mail of the right to request such notice of the expiration of the 30-day period.

(c) In the case of a complaint referred to a State or local agency and subsequently reactivated by the Assistant Secretary pursuant to § 71.20, the person aggrieved and the respondent shall each be notified of the date of reactivation and complainant's right to request a notice under paragraph (b) of this section.

(d) Issuance of notice pursuant to paragraph (b) of this section shall suspend further proceedings by the Department unless the Assistant Secretary determines otherwise.

(e) Notwithstanding paragraph (a) of this section, a complaint may be deemed filed, for purposes of the 180-day period of section 810(b) of title VIII, upon the receipt of written information sufficiently precise to identify the parties and describe generally the action or practice complained of. Such a complaint may be amended, as provided in § 71.15, to cure technical defects or omissions, including failure to verify the complaint, or to clarify and amplify allegations made therein, and any amendment shall be deemed to be made as of the original filing date.

§ 71.17 Service of complaint; filing of answers.

Upon the filing of a complaint within the meaning of § 71.16(a), and upon any amendment of such a complaint, a copy thereof shall be furnished the respondent by certified mail or through personal service by Department representatives. The respondent may file an answer to the complaint at any time prior to the expiration of 7 days after the date the complaint is received by him. The answer shall be sworn to before a notary public or sworn to before a duly authorized representative of the Assistant Secretary. With leave of the Assistant Secretary an answer may be amended at any time and sworn to as provided in this section. The Assistant Secretary will permit answers to be amended whenever he believes it would be reasonable and fair to do so.

§ 71.18 Referrals to State or local fair housing agencies.

Whenever the Assistant Secretary determines consistent with Department standards that a State or local fair housing law provides rights and remedies substantially equivalent to those provided by title VIII for a person aggrieved by a discriminatory housing practice alleged in a complaint filed with the Assistant Secretary hereunder, the Assistant Secretary shall notify the appropriate State or local agency of such complaint. The Assistant Secretary shall give the complainant and the respondent notice in writing of such referral. Notices under this section shall be by certified mail.

§ 71.19 Suspension of proceedings.

When a fair housing complaint has been referred to a State or local fair housing agency pursuant to § 71.18, then proceedings under the regulations in this part for title VIII shall be suspended and no further action shall be taken by the Assistant Secretary hereunder except as provided in § 71.20.

§ 71.20 Reactivation of referred complaints.

(a) Whenever proceedings have been suspended pursuant to § 71.19, the Assistant Secretary may reactivate the case if he certifies that in his judgment the protection of the rights of the parties or the interests of justice require such action.

(b) As a matter of policy, such certification shall be made routinely when the State or local agency has not commenced proceedings within 30 days following the referral of the complaint to it, or having commenced action has not carried forth such proceedings with reasonable promptness within the judgment of the Assistant Secretary.

§ 71.21 Investigation and decision to resolve.

(a) Within 30 days after a complaint is filed or within 30 days after reactivation by the Assistant Secretary in the case of a complaint referred to a State or local agency and subsequently reactivated pursuant to § 71.20, the Assistant Secretary shall investigate the complaint and give notice in writing to the person aggrieved and to the respondent if the Assistant Secretary intends to take further action with respect to the complaint.

(b) Notwithstanding paragraph (a) of this section, where the allegations of a complaint on their face, or as amplified by the statements of the complainant, disclose that the complaint is not timely filed or otherwise fails to state a valid claim for relief under title VIII, the Assistant Secretary may dismiss the complaint without further action.

(c) If the Assistant Secretary decides not to resolve a complaint, or to dismiss it under paragraph (b) of this section, he shall advise the person aggrieved in writing of the disposition of the case. Respondent shall also be notified in any case where he has been served with a copy of the complaint.

(d) The Assistant Secretary may, in the processing of a case, utilize, with their consent, the services of State or local agencies charged with the administration of fair housing laws or of appropriate Federal agencies.

(e) Any party adversely affected by a determination under paragraph (a) or (b) of this section may, within 5 days of receipt of notice of a determination, request that the Assistant Secretary reconsider his action. Such request for reconsideration will be granted only on the basis of additional material evidence not previously available to the party requesting reconsideration or for other good cause shown.

§ 71.22 Subpoenas, interrogatories, and investigative powers.

The Assistant Secertary encourages voluntary cooperation in his investigations but will resort to the compulsory processes authorized by section 811 of title VIII when, in his judgment, such resort becomes appropriate in order reasonably to expedite handling of complaints. The provisions of section 811 of title VIII shall apply, in such cases, to the issuance and use of subpoenas by the Assistant Secretary on his own behalf or on behalf of a respondent, and to the issuance and use by the Assistant Secretary of interrogatories to a respondent; however, the legality of each such issuance shall be approved by the General Counsel. Payment of witness and mileage fees shall be made as provided for in section 811(c) in an amount allowed under the rules governing such payment by the U.S. district courts. Fees payable to a witness summoned by subpoena issued at the request of a respondent shall be paid by respondent.

Subpart C—Procedures to Rectify Discriminatory Housing Practices

§ 71.31 Conference, conciliation, and persuasion.

If the Assistant Secretary has decided to resolve a complaint, he shall endeavor to eliminate or correct the discriminatory

housing practice alleged therein by informal methods of conference, conciliation, and persuasion. These endeavors need not be terminated even if the person aggrieved has commenced a civil action in an appropriate court under title VIII, but all efforts to obtain voluntary compliance shall immedately terminate when such civil action comes to trial, unless the court specifically requests assistance from the Assistant Secretary, or directs otherwise.

§ 71.32 Conciliation agreements.

In conciliating or taking other action pursuant to § 71.31, the Assistant Secretary shall attempt to achieve a just resolution of the complaint and to obtain assurances, where appropriate, that the respondent will satisfactorily remedy any violations of the rights of the person aggrieved and will take such action as will assure the elimination of discriminatory housing practices or the prevention of their occurrence in the future. The terms of such settlement shall be reduced to a written conciliation agreement, signed by both parties, and by the Assistant Secretary or his representative. Such conciliation agreement shall seek to protect the interests of the complainant, his group, and the public interest. Written notice of disposition of a case pursuant to § 71.31 and of the terms of settlement shall be given to the parties by the Assistant Secretary or his representative. The Assistant Secretary may, from time to time, review compliance with the terms of any settlement agreement and may, upon a finding of noncompliance, take such enforcement action as is provided for under the settlement agreement or as may otherwise be appropriate.

§ 71.33 Inability to obtain voluntary compliance.

Should a respondent fail or refuse to confer with the Assistant Secretary or his representative, or fail or refuse to make a good faith effort to resolve any dispute, or should the Assistant Secretary find for any other reason that voluntary agreement is not likely to result, the Assistant Secretary may terminate his efforts to conciliate the dispute. In such event, the parties shall be notified promptly in writing that such efforts have been unsuccessful, and the complainant will be notified of his legal rights in regard to his complaint.

§ 71.34 Notification where voluntary compliance is not obtained.

The person aggrieved shall be notified in writing by registered or certified mail when the Assistant Secretary has determined that he is unable to obtain voluntary compliance through informal methods of conference, conciliation, or persuasion. The 30 days provided in section 810(d) of title VIII within which a civil action may be commenced shall be deemed to begin upon the receipt of such notice.

§ 71.35 Confidentiality of conciliation conferences.

Once the Assistant Secretary has decided to resolve a complaint under title VIII and respondent has agreed to participate in informal endeavors by the Assistant Secretary for such purposes, nothing that is said or done thereafter, during and as a part of the Assistant Secretary's endeavors to resolve the complaint by informal methods of conference, conciliation, and persuasion, may be made public, or used as evidence in a subsequent proceeding under title VIII, without the written consent of the persons concerned.

§ 71.36 Other action by the Assistant Secretary.

If voluntary compliance has not been obtained and the Assistant Secretary has terminated efforts at conciliation in a case where after evaluation of the investigation the evidence on balance indicates there has been a discriminatory housing practice, the Assistant Secretary may pursue one or more of the following courses of action:

(a) Recommend to the Attorney General of the United States that he institute a civil action under section 813 of title VIII for relief against a pattern or practice of resistance to the full enjoyment of any of the rights granted by said title or a denial of rights under the title to a group of persons raising an issue of general public importance.

(b) Refer the matter to the Attorney General for such other action as he may deem appropriate.

(c) Institute enforcement proceedings under E.O. 11063 or title VI of the Civil Rights Act of 1964, in accordance with regulations and procedures prescribed therefor.

(d) Inform any other Federal agency appearing to have an interest in the enforcement of respondent's obligations with respect to discrimination in housing.

Effective date. This part shall be effective November 26, 1971.

MALCOLM E. PEABODY, Jr.,
Deputy Assistant Secretary for Equal Opportunity.

APPENDIX—LIST OF DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT REGIONAL OFFICES AND JURISDICTIONAL AREAS

Region	Address	Jurisdictional area
I	Room 800 John F. Kennedy Federal Bldg., Boston, MA 02203.	Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.
II	26 Federal Plaza, New York, NY 10007.	New Jersey, New York, Puerto Rico, Virgin Islands.
III	Curtis Bldg., Sixth and Walnut Sts., Philadelphia, PA 19106.	Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia.
IV	Peachtree-Seventh Bldg., Atlanta, GA 30323.	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee.
V	300 South Wacker Dr., Chicago, IL 60606.	Illinois, Indiana, Minnesota, Michigan, Ohio, Wisconsin.
VI	Federal Office Bldg., 819 Taylor St., Fort Worth, TX 76102.	Arkansas, Louisiana, New Mexico, Oklahoma, Texas.
VII	300 Federal Office Bldg., 911 Walnut St., Kansas City, MO 64106.	Iowa, Kansas, Missouri, Nebraska.
VIII	Federal Bldg., 1961 Stout St., Denver, CO 80202.	Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming.
IX	450 Golden Gate Ave., Post Office Box 36003, San Francisco, CA 94102.	Arizona, California, Hawaii, Nevada, Guam, American Samoa.
X	Arcade Plaza Bldg., 1321 Second Ave., Seattle, WA 98101.	Alaska, Idaho, Oregon, Washington.

[FR Doc.71-15419 Filed 10-22-71;8:45 am]

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 Eligible Communities

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 eligible communities.

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
* * *	* * *	* * *	* * *	* * *	* * *	* * *
California	Tehama	Red Bluff	I 06 103 2940 03 through I 06 103 2940 06	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, 555 Washington St., Red Bluff, CA 96080.	October 22, 1971.
Do	Alameda	Berkeley				Do.
Do	San Diego	Escondido				Do.
Do	Ventura	Santa Paula				Do.
Georgia	Fulton and Clayton.	College Park				Do.
Indiana	Brown	Unincorporated areas.				Do.
Do	do	Nashville				Do.
Do	St. Joseph	Unincorporated areas.				Do.
Kansas	Shawnee	Topeka	I 20 177 5400 05 through I 20 177 5400 19	Division of Water Resources, State Board of Agriculture, Topeka, Kans. 66612. Kansas Insurance Department, 1st Floor, Statehouse, Topeka, Kans. 66612.	City Engineering Dept., City Hall, 7th and Quincy Sts., Topeka, KS 66603.	Do.
Maryland	Howard	Unincorporated areas.				Do.
Missouri	St. Louis	Ladue				Do.
New Jersey	Cumberland	Downe Township				Do.
Pennsylvania	Delaware	Brookhaven Borough.				Do.
Do	Northampton	Palmer Township				Do.
Texas	Refugio	Unincorporated areas.	I 48 391 0000 03 through I 48 391 0000 65	Texas Water Development Board, Post Office Box 12386, Capital Station, Austin, TX 78701. Texas Insurance Department, 1110 San Jacinto St., Austin, TX 78701.	Office of the County Clerk, County Courthouse, 808 Commerce St., Refugio, TX 78377.	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: October 19, 1971.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.71-15443 Filed 10-22-71;8:45 am]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities With Special 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 communities with special 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	Tehama	Red Bluff	H 06 103 2940 03 through H 06 103 2940 06	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, 555 Washington St., Red Bluff, CA 96080.	January 15, 1971.
Do	Alameda	Berkeley				October 22, 1971.
Do	San Diego	Escondido				Do.
Do	Ventura	Santa Paula				Do.
Georgia	Fulton and Clayton.	College Park				Do.
Indiana	Brown	Unincorporated areas.				Do.
Do	do	Nashville				Do.
Do	St. Joseph	Unincorporated areas.				Do.
Kansas	Shawnee	Topeka	H 20 177 5400 05 through H 20 177 5400 19	Division of Water Resources, State Board of Agriculture, Topeka, Kans. 66612. Kansas Insurance Department, 1st Floor, Statehouse, Topeka, Kans. 66612.	City Engineering Department, City Hall, Seventh and Quincy Sts., Topeka, KS 66603.	August 12, 1970.
Maryland	Howard	Unincorporated areas.				October 22, 1971.
Missouri	St. Louis	Ladue				Do.
New Jersey	Cumberland	Downe Township				Do.
Pennsylvania	Delaware	Brookhaven Borough.				Do.
Do	Northampton	Palmer Township				Do.
Texas	Refugio	Unincorporated areas.	H 48 391 0000 03 through H 48 391 0000 65.	Texas Water Development Board, Post Office Box 12386, Capital Station, Austin, TX 78701. Texas Insurance Department, 1110 San Jacinto St., Austin, TX 78701.	Office of the County Clerk, County Courthouse, 808 Commerce St., Refugio, TX 78377.	August 12, 1970.

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

Issued: October 19, 1971.

George K. Bernstein,
Federal Insurance Administrator.

[FR Doc.71-15444 Filed 10-22-71;8:45 am]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER C—DRUGS

PART 141d—CHLORAMPHENICOL AND CHLORAMPHENICOL-CONTAINING DRUGS; TESTS AND METHODS OF ASSAY

PART 146d—CERTIFICATION OF CHLORAMPHENICOL AND CHLORAMPHENICOL-CONTAINING DRUGS

Combination Drug Containing Chloramphenicol Paromomycin, and Hydrocortisone Acetate

In the FEDERAL REGISTER of September 23, 1970 (35 F.R. 14799, DESI 50204), the Commissioner of Food and Drugs announced the conclusions of the Food and Drug Administration following evaluation of a report received from the National Academy of Sciences—National Research Council, Drug Efficacy Study Group, regarding the following preparation: Humacort Ointment containing chloramphenicol, paromomycin, and hydrocortisone acetate; marketed by Parke, Davis & Co., Joseph Campau at the River, Detroit, Mich. 48232 (NDA 50-204).

The Administration concluded that the drug is possibly effective for topical use in the treatment of pyogenic dermatoses of allergic and other eiology. The Administration allowed any applicant 6 months from the date of publication in which to obtain and submit data to provide substantial evidence of effectiveness for use in these conditions. At the end of this 6-month period, if no studies had been undertaken or if the studies had not provided substantial evidence of effectiveness, such drug would not be eligible for release or certification.

Such evidence has not been submitted; therefore, the drug has been reclassified from possibly effective to lacking substantial evidence of effectiveness. Accordingly, the Commissioner concludes that the antibiotic drug regulations providing for certification of such drug should be revoked.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 507, 52 Stat. 1050-51, as amended, 59 Stat. 463, as amended; 21 U.S.C. 352, 357) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 141d and 146d are amended by revoking § 141d.316 *Chloramphenicol-paromomycin ointment* and § 146d.316 *Chloramphenicol-paromomycin ointment.*

Any person who will be adversely affected by the removal of any such drug from the market may file objections to this order, request a hearing, and show reasonable grounds for the hearing. The statement of reasonable grounds and request for a hearing shall be submitted in writing within 30 days after publication hereof in the FEDERAL REGISTER, shall state the reasons why the antibiotic drug regulations should not be revoked, and shall include a well organized and full factual analysis of the clinical and other investigational data the objector is prepared to prove in support of his objections.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing. When it clearly appears from the data incorporated into or referred to by the objections and from the factual analysis in the request for a hearing that no genuine issue of fact precludes the action taken by this order, the Commissioner will enter an order on these data, making findings and conclusions on such data.

If a hearing is requested and justified by the objections, the issues will be defined and a hearing examiner named to conduct the hearing. The provisions of Subpart F of 21 CFR Part 2 shall apply to such hearing, except as modified by 21 CFR 146.1(f), and to judicial review in accord with section 701 (f) and (g) of the Federal Food, Drug, and Cosmetic Act. (35 F.R. 7250, May 8, 1970.)

Objections and requests for a hearing should be filed (preferably in quintuplicate) with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, Md. 20852. Received objections and requests for a hearing may be seen in the above office during regular business hours, Monday through Friday.

Effective date. This order shall become effective 40 days after its date of publication in the FEDERAL REGISTER. If objections are filed, the effective date will be extended for ruling thereon. In so ruling, the Commissioner will specify another effective date.

(Secs. 502, 507, 52 Stat. 1050-51, as amended, 59 Stat. 463, as amended; 21 U.S.C. 352, 357)

Dated: October 14, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc. 71-15465 Filed 10-2-71;8:47 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER C—EMPLOYMENT TAXES

[T.D. 7115]

PART 31—EMPLOYMENT TAXES, APPLICABLE ON AND AFTER JANUARY 1, 1955

Rates of Income Tax Withholding; Marital Status for Purposes of Withholding; Correction

In F.R. Doc. 36-99, appearing at pages 9223 and 9224 in issue for Friday, May 21, 1971, the following change should be made:

In the third table appearing on page 9223, with heading "If the payroll period with respect to an employee is monthly and he is not married—," change to "If the payroll period with respect to an employee is monthly and he is married."

The above change should be carried over to the first table on page 9224 as the table is a continuation of the third table on page 9223.

Also, on page 9224, first table, on line 10, under the column with respect to 4 exemptions, the amount appearing as "$373.70" should be changed to "$373.90."

JAMES F. DRING,
Director,
Legislation and Regulations Division.

[FR Doc.71-15476 Filed 10-22-71;8:48 am]

SUBCHAPTER F—PROCEDURE AND ADMINISTRATION

[T.D. 7147]

PART 301—PROCEDURE AND ADMINISTRATION; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Grant of Seals of Office to Directors of Internal Revenue Service Centers

In order to grant a seal of office to the Director of the Internal Revenue Service Center, North Atlantic Region, Brookhaven, N.Y., the Director of the Internal Revenue Service Center, Southeast Region, Memphis, Tenn., and the Director of the Internal Revenue Service Center, Western Region, Fresno, Calif., the regulations on procedure and administration (26 CFR Part 301) under section 7514 of the Internal Revenue Code of 1954 are amended as follows:

Paragraph (a)(5)(ii) of § 301.7514-1 is amended to read as follows:

§ 301.7514-1 Seals of office.

(a) Establishment of seals. * * *

(5) *Directors of Internal Revenue Service Centers* * * *

(ii) The offices of director of internal revenue service center for which seals are established in subdivision (i) of this subparagraph are as follows:

Director, Internal Revenue Service Center, Central Region, Covington, Ky.
Director, Internal Revenue Service Center, Mid-Atlantic Region, Philadelphia, Pa.
Director, Internal Revenue Service Center, Midwest Region, Kansas City, Mo.
Director, Internal Revenue Service Center, North-Atlantic Region, Andover, Mass.
Director, Internal Revenue Service Center, North-Atlantic Region, Brookhaven, N.Y.
Director, Internal Revenue Service Center, Southeast Region, Chamblee, Ga.
Director, Internal Revenue Service Center, Southeast Region, Memphis, Tenn.
Director, Internal Revenue Service Center, Southwest Region, Austin, Tex.
Director, Internal Revenue Service Center, Western Region, Fresno, Calif.
Director, Internal Revenue Service Center, Western Region, Ogden, Utah.

* * * * *

Because this Treasury decision establishes rules of Treasury practice and procedure, it is found that it is unnecessary to issue this Treasury decision with

notice and public procedure thereon under section 553(b) of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of such section.

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

JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

Approved: October 20, 1971.

EDWIN S. COHEN,
Assistant Secretary of the Treasury.

[FR Doc.71-15511 Filed 10-22-71;8:51 am]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 207—NAVIGATION REGULATIONS

Lower Atchafalaya River (Berwick Bay), La.

Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1), § 207.240 governing navigation through the Southern Pacific Railroad Bridge across the Lower Atchafalaya River (Berwick Bay) at Morgan City, La., is hereby revoked, effective upon publication in the FEDERAL REGISTER, since the regulations are no longer needed, as follows:

§ 207.240 Atchafalaya River, La.; special regulations to govern navigation through the reach of the Lower Atchafalaya River (Berwick Bay) in the vicinity of the Southern Pacific Railroad Bridge at Morgan City, La. [Revoked]

[Regs., September 29, 1971, 1522-01 (Lower Atchafalaya River (Berwick Bay), La.) DAEN-CWO-N] (Sec. 7, 40 Stat. 266; 33 U.S.C. 1)

For the Adjutant General.

R. B. BELNAP,
Special Advisor to TAG.

[FR Doc.71-15446 Filed 10-22-71;8:45 am]

Title 36—PARKS, FORESTS, AND MEMORIALS

Chapter I—National Park Service, Department of the Interior

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

Protection of Prehistoric Ruins and Visitors, Commercial Automobiles and Buses, and Hiking, Mesa Verde Park, Colo.

A proposal was published at page 6660 of the FEDERAL REGISTER of April 18, 1969, to revoke regulations concerning hospital charges which are no longer applicable inasmuch as first-aid treatment only is now given in the park. The revision also revokes regulations on speed which are no longer necessary in view of the provisions of Part 4 of this chapter.

The notice of proposed rule making additionally called for the revocation of the regulation concerning admission of commercial automobiles and buses. However, upon reconsideration, it was decided to retain all but the last two sentences of that paragraph, which dealt with tour permit fees and it is set forth below as paragraph (c). Technical changes have been made to reflect recodification of § 1.36 to § 5.4 and to delete the word "general" from the phrase "general, infrequent, and nonscheduled tour."

The proposal contained a new paragraph (a) which was added to provide for the protection of the extremely fragile prehistoric ruins and for the protection of the visitor. Visitation of the cliff dwellings will be permitted only when persons are accompanied by uniformed National Park Service employees. This is for the protection, not only of the ruins themselves, which are extremely fragile and cannot be replaced, but also for the protection of the visitor since the ruins are unstable.

Scientists and groups of scientists engaged in scientific study of the ruins may be authorized by the Superintendent to visit the ruins without such a National Park Service employee.

For the protection of numerous ruins which are scattered throughout the park and for the protection of the visitor in rugged terrain, hiking will be restricted to designated trails. Persons hiking on the Pictograph Point or Spruce Canyon Trails will be required to register with the Superintendent before beginning the hike.

A 30-day period was provided for public comment. No comments, objection or suggestions were received. Section 7.39 is therefore hereby revised as set forth below. The revision will take effect 30 days after publication of this notice in the FEDERAL REGISTER.

(5 U.S.C. 553; 39 Stat. 535, as amended; 16 U.S.C 3)

Section 7.39 of Title 36 of the Code of Federal Regulations is revised to read as follows:

§ 7.39 Mesa Verde National Park.

(a) Visiting of cliff dwellings is prohibited except when persons are accompanied by a uniformed National Park Service employee. However, the Superintendent may issue special written permits to persons engaged in scientific investigations authorizing such persons to visit the cliff dwellings without escort. The Superintendent shall approve issuance of a permit provided:

(1) That the investigation plan proposed, in purpose and in execution, is compatible with the purposes for which the park was established;

(2) That the investigation proposed will not jeopardize the preservation of park resources;

(3) That the study undertaken will have demonstrable value to the National Park Service in its management or understanding of park resources; and

(4) That the permit applicants are adequately experienced and equipped so as to insure that the objectives of paragraph (a) (1), (2), and (3) of this section will be obtained.

(b) Hiking is permitted only on trails designated for that purpose by the Superintendent by the posting of appropriate signs or by marking on a map which shall be available for inspection by the public at park headquarters and other convenient locations within the park. Persons hiking on the Pictograph Point or Spruce Canyon Trails must register in advance with the Superintendent.

(c) Commercial automobiles and buses: The prohibition against the admission of commercial automobiles and buses to Mesa Verde National Park, contained in § 5.4 of this chapter, shall be subject to the following exceptions: Motor vehicles operated on an infrequent and nonscheduled tour on which the visit to the park is an incident to such tour, carrying only round trip passengers traveling from the point of origin of the tour, will be accorded admission to the park upon establishing to the satisfaction of the Superintendent that the tour originated from such place and in such manner as not to provide, in effect, a regular and duplicating service conflicting with, or in competition with, the services provided for the public at or outside of the park pursuant to contract authorization with the Secretary.

F. F. KOWSKI,
Director, Southwest Region.

[FR Doc.71-15455 Filed 10-22-71;8:46 am]

PART 50—NATIONAL CAPITAL PARK REGULATIONS

National Capital Parks; Applicability of Regulations; Place of Trial; Collateral Schedule

A proposal was published at page 8813 of the FEDERAL REGISTER of May 13, 1971, to amend paragraphs (b) and (c) of § 50.4 of Title 36 of the Code of Federal Regulations and to delete §§ 50.6 and 50.101.

The amendments to § 50.4 expand the definition of "environs of the District of Columbia" contained therein to cover Loudoun, Prince William, and Stafford Counties in Virginia and Charles County in Maryland. Deletion of §§ 50.6 and 50.101 results in elimination of explanatory material on place of trial and a schedule of minimum collateral, respectively.

Interested persons were given 30 days within which to submit written comments, suggestions, or objections with respect to the proposed amendment. No comments, suggestions, or objections have been received and the proposed amendments are hereby adopted without change and are set forth below. The amendments will take effect 30 days following the date of publication in the FEDERAL REGISTER.

(5 U.S.C. 553, 39 Stat. 535, as amended; 16 U.S.C. 3; 62 Stat. 81; 84 Stat. 827)

Part 50 is amended as follows:

§ 50.4 Definitions.

* * * * *

(b) The term "other Federal reservations" means Federal areas, which are not under the administrative jurisdiction of the Department of the Interior, located in Arlington, Fairfax, Loudoun, Prince William, and Stafford Counties and the city of Alexandria in Virginia and Prince Georges, Charles, Anne Arundel, and Montgomery Counties in Maryland, exclusive of military reservations, unless the policing of such areas by the U.S. Park Police is specifically requested by the Secretary of Defense or his designee.

(c) The term "environs of the District of Columbia" embraces Arlington, Fairfax, Loudoun, Prince William, and Stafford Counties and the city of Alexandria in Virginia and Prince Georges, Charles, Anne Arundel, and Montgomery Counties in Maryland.

* * * * *

§ 50.6 [Deleted]

Section 50.6 is deleted.

§ 50.101 [Deleted]

Section 50.101 is deleted.

Dated: October 4, 1971.

RUSSELL E. DICKENSON,
Director,
National Capital Parks.

[FR Doc.71-15456 Filed 10-22-71;8:46 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 4—Department of Agriculture

PART 4-4—SPECIAL TYPES AND METHODS OF PROCUREMENT

PART 4-5—SPECIAL AND DIRECTED SOURCES OF SUPPLY

Miscellaneous Amendments

These amendments involve matters relating to agency management and include rules interpreting and implementing existing regulations of the Department, which are not subject to the notice and public procedure requirements for rule making under 5 U.S.C. 553.

The following amendment is made in the Agriculture Procurement Regulations:

1. Section 4-4.5021 is revised to read as follows:

§ 4-4.5021 Office-type copying machines.

Proposed acquisitions of office-type copying machines and related equipment to be located in the Washington, D.C. metropolitan area shall be submitted to the Office of Plant and Operations for approval. Proposals shall state in addition to make, model, and cost, the type, variety, and maximum size of documents to be copied, the approximate total copies to be made anuually, and the basis for determining such quantity, the number and make of copying machines on hand, if any, and the use or disposition to be made of them, and efforts made to share copying facilities of own and other agency offices. Proposed acquisitions for other locations shall be approved by an agency property management officer as provided in § 104-25.302-50. (See § 101-25.504 and 104-25.504.)

2. Section 4-4.5043 is revised to read as follows:

§ 4-4.5043 Furniture and furnishings for executive offices.

See 101-25.302 and 104-25.302.1 of this title.

3. Section 4-4.5046 is amended as follows:

§ 4-4.5046 Gasoline and other items from service stations.

* * * * *

(d) *Billing address codes.* * * *

* * * * *

011-020 Packers and Stockyards Administration

* * * * *

700-749 Rural Electrification Administration

750-999 Reserved

4. Section 4-4.5093 is amended by revising the last sentence of the first paragraph, revising paragraph (a) and revising the first sentence of paragraph (b). As amended, § 4-4.5093 reads as follows:

§ 4-4.5093 Training services.

* * * Otherwise, purchase of such services should be made in accordance with the procurement procedures of this title subject, however, to the following special requirements: Section 14 of the Government Employees Training Act, 5 U.S.C. 4107(a) as implemented by Civil Service Training Regulations 5 CFR 410.504; and Department Personnel Manual, chapters 410 and 732 which contains the following requirements:

(a) Training provided by organizations: When the outside training is to be conducted by, in, or through an organization, the requirements of 5 U.S.C. 4107 (a) are met if the purchasing officer determines that the organization is not on the list of organizations designated by the Attorney General pursuant to section 12 of Executive Order 10450 listed on Civil Service form 385, cited in the Department Personnel Manual, chapter 732, subchapter 8-1.

(b) Training provided by an individual: when the training is to be conducted by an individual with whom contractual or other arrangements are made directly, a loyalty determination must be obtained from the office of personnel in accordance with Department Personnel Manual, chapter 410, subchapter 5-2c. * * *

* * * * *

5. Section 4-5.5301-3 is amended as follows:

Paragraph (f) is deleted and paragraph (l) is revised. As amended, § 4-5.5301-3 reads as follows:

§ 4-5.5301-3 Utilization of GSA Stores Depot Stocks.

* * * * *

(f) [Deleted]

* * * * *

(l) Where items available from GSA will not adequately serve the required functional purpose and it is necessary to procure similar items from other sources to meet actual needs of the procuring agency, prior approval of GSA is required. Requests to waive the required use of GSA items shall be submitted by procurement officers to GSA in accordance with section 101-26.301-1 of the FPMR and section 104-26.301-1 of the AGPMR.

Effective date: Upon publication in the FEDERAL REGISTER (10-23-71).

Done at Washington, D.C., this 15th day of October 1971.

T. M. BALDAUF,
Acting Director
of Plant and Operations.

[FR Doc.71-15502 Filed 10-22-71;8:50 am]

Chapter 6—Department of State

[Dept. Reg. 108.645]

Miscellaneous Amendments to Chapter

Parts 6-1, 6-3, and 6-6, Chapter 6 of Title 41 of the Code of Federal Regulations are amended to reflect organizational changes within the Department of State.

PART 6-1—GENERAL

In Subpart 6-1.6, paragraph (b) of section 6-1.602 is amended to read as follows:

§ 6-1.602 Department of State procedure for administrative debarment.

* * * * *

(b) The recommendation for debarment together with a statement of the causes or conditions (§ 1-1.605 of this title), the suggested term of debarment, and documentary evidence to support the recommendation will be submitted to the Chief, Supply and Transportation Division. If concurred in, the recommendation will be forwarded through the legal adviser to the Assistant Secretary for Administration for final decision and return to the Chief, Supply and Transportation Division.

PART 6-3—PROCUREMENT BY NEGOTIATION

In Subpart 6-3.3, paragraph (a) of section 6-3.302 is amended to read as follows:

§ 6-3.302 Determinations and findings required.

(a) Findings and determinations made under the following sections of this title are to be prepared for the signature of the Assistant Secretary for Administration and submitted for review through

the Chief, Supply and Transportation Division:

* * * * *

PART 6-6—FOREIGN PURCHASES

In Subpart 6-6.10, § 6-6.1050 is amended to read as follows:

§ 6-6.1050 Comptroller General concurrence.

The Supply and Transportation Division shall prepare documents for the signature of the Assistant Secretary for Administration to solicit the concurrence of the Comptroller General for determinations and findings prepared and executed on a "best interest" basis, in accordance with § 1-6.1001(a)(1).

(Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c); sec. 4, 63 Stat. 111; 22 U.S.C. 2658)

Effective date. These amendments shall be effective upon publication in the FEDERAL REGISTER (10-23-71).

JOSEPH F. DONELAN, JR.,
Acting Assistant Secretary for Administration.

OCTOBER 13, 1971.

[FR Doc.71-15480 Filed 10-22-71;8:48 am]

Title 39—POSTAL SERVICE

Chapter I—United States Postal Service

PART 619—PURCHASE OF MAIL TRANSPORTATION AND RELATED SERVICES BY CONTRACT

Miscellaneous Amendments

Correction

In F.R. Doc. 71-15264 appearing at page 20332 in the issue of Wednesday, October 20, 1971, the third sentence of § 619.407-2(a) should read as follows: "Offers determined to be the most advantageous shall not thereafter be rejected unless it is determined that the offeror is not eligible (see § 619.403-4); that he is not responsible; that he willfully or negligently failed to perform a former contract; or that rejection is otherwise in the public interest."

Title 42—PUBLIC HEALTH

Chapter IV—Environmental Protection Agency

PART 420—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

Miscellaneous Amendments

On August 14, 1971 (36 F.R. 15486), the Administrator promulgated regulations establishing requirements for the preparation, adoption, and submittal of State plans for implementation of national ambient air quality standards. Section 420.16 of the regulations set forth requirements for the development of contingency plans to prevent air pollutant concentrations from reaching levels which would constitute imminent and substantial endangerment to the health of persons, and stated that such levels would be prescribed by the Administrator.

The term "imminent and substantial endangerment to the health of persons," as used in section 303 of the Clean Air Act, means an immediate and serious threat of significant harm to the health of any significant portion of the general population. The Administrator has determined that it is necessary to prescribe those pollutant concentrations which scientific data indicate constitute "significant harm" levels. States' contingency plans must be designed to prevent these levels from being reached and to protect, generally, against the risk of dangerous pollutant buildups.

Based upon a review of the pertinent scientific data, the Administrator has identified the air pollutant concentrations which constitute levels of significant harms to the health of persons. Accordingly, § 420.16 of the regulations is revised by setting forth those levels for five pollutants covered by national ambient air quality standards. Corresponding revisions are made in appendix L to the regulations; appendix L sets forth among other things, pollutant concentrations suggested as episode criteria, i.e., levels at which abatement action would be initiated to prevent the occurrence of significant harm levels. The revisions of appendix L affect only the sulfur dioxide, particulate, and combined sulfur dioxide and particulate concentrations presented as suggested "warning" and "emergency" levels.

These amendments are effective upon publication (10-23-71). The Administrator finds that because of the deadline prescribed by the Clean Air Act for submittal of State implementation plans, including contingency plans to prevent imminent and substantial endangerment, good cause exists for dispensing with a notice of proposed rule-making and for making these amendments effective immediately.

1. Section 420.16(a) is revised to read as follows:

§ 420.16 Prevention of air pollution emergency episodes.

(a) For the purpose of preventing air pollution emergency episodes, each plan for a Priority 1 region shall include a contingency plan which shall, as a minimum, provide for taking any emission control actions necessary to prevent ambient pollutant concentrations at any location in such region from reaching levels which could cause significant harm to the health of persons, which levels are as follows:

Sulfur dioxide—2,620 micrograms/cubic meter (1.0 part per million), 24-hour average.
Particulate matter—1,000 micrograms/cubic meter or 8 COH's, 24-hour average.
Sulfur dioxide and particulate matter combined—product of sulfur dioxide in micrograms/cubic meter, 24-hour average, and particulate matter in micrograms/cubic meter, 24-hour average, equal to 490×10^3 or product of sulfur dioxide in parts per million, 24-hour average and COH's, 24-hour average, equal to 1.5.
Carbon monoxide:
57.5 milligrams/cubic meter (50 parts per million), 8-hour average.
86.3 milligrams/cubic meter (75 parts per million), 4-hour average.
144 milligrams/cubic meter (125 parts per million), 1-hour average.
Photochemical oxidants:
800 micrograms/cubic meter (0.4 part per million), 4-hour average.
1,200 micrograms/cubic meter (0.6 part per million), 2-hour average.
1,400 micrograms/cubic meter (0.7 part per million), 1-hour average.
Nitrogen dioxide:
3,750 micrograms/cubic meter (2.0 parts per million), 1-hour average.
938 micrograms/cubic meter (0.5 part per million), 24-hour average.

* * * * *

2. Appendix L, section 1.5.1 (c) and (d) are revised to read as follows:

(c) "Warning": The warning level indicates that air quality is continuing to degrade and that additional control actions are necessary. A warning will be declared when any one of the following levels is reached at any monitoring site:

SO_2—1,600 $\mu g./m.^3$ (0.6 p.p.m.), 24-hour average.
Particulate—5.0 COH's or 625 $\mu g./m.^3$, 24-hour average.
SO_2 and particulate combined—product of SO_2 p.p.m., 24-hour average and COH's equal to 0.8 or product of SO_2 $\mu g./m.^3$, 24-hour average and particulate $\mu g./m.^3$, 24-hour average equal to 261×10^3.
CO—34 $mg./m.^3$ (30 p.p.m.), 8-hour average.
Oxidant (O_3)—800 $\mu g./m.^3$ (0.4 p.p.m.), 1-hour average.
NO_2—2,260 $\mu g./m.^3$ (1.2 p.p.m.)—1-hour average; 565 $\mu g./m.^3$ (0.3 p.p.m.), 24-hour average.

and meteorological conditions are such that pollutant concentrations can be expected to remain at the above levels for twelve (12) or more hours or increase unless control actions are taken.

(d) "Emergency": The emergency level indicates that air quality is continuing to degrade toward a level of significant harm to the health of persons and that the most stringent control actions are necessary. An emergency will be declared when any one of the following levels is reached at any monitoring site:

SO_2—2,100 $\mu g./m.^3$ (0.8 p.p.m.), 24-hour average.
Particulate—7.0 COH's or 875 $\mu g./m.^3$, 24-hour average.
SO_2 and particulate combined—product of SO_2 p.p.m., 24-hour average and COH's equal to 1.2 or product of SO_2 $\mu g./m.^3$, 24-hour average and particulate $\mu g./m.^3$, 24-hour average equal to 393×10^3.
CO—46 $mg./m.^3$ (40 p.p.m.), 8-hour average.
Oxidant (O_3)—1,200 $\mu g./m.^3$ (0.6 p.p.m.), 1-hour average.
NO_2—3,000 $\mu g./m.^3$ (1.6 p.p.m.), 1-hour average; 750 $\mu g./m.^3$ (0.4 p.p.m.), 24-hour average.

and meteorological conditions are such that this condition can be expected to remain at the above levels for twelve (12) or more hours.

Dated: October 20, 1971.

WILLIAM D. RUCKELSHAUS,
Administrator, Environmental Protection Agency.

[FR Doc.71-15593 Filed 10-22-71;8:51 am]

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5134]

[Arizona 6093]

ARIZONA

Withdrawal for National Forest Research Area

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

1. Subject to valid existing rights, the following described national forest 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:

CORONADO NATIONAL FOREST

GILA AND SALT RIVER MERIDIAN

Goodding Research Natural Area

T. 23 S., R. 11 E.,
Sec. 14, SW¼NE¼SW¼, S½NW¼NW¼SW¼, S½NW¼SW¼, SW¼SW¼, and W½SE¼SW¼;
Sec. 15, SW¼NE¼, SW¼SW¼SE¼NE¼, S½NE¼SE¼NW¼, N½SE¼SE¼NW¼, SE¼SE¼SE¼NW¼, NE¼NE¼NE¼SW¼, S½NE¼NE¼SE¼, NW¼NE¼SE¼, S½NE¼SE¼, E½NW¼SE¼, N½NW¼NW¼SE¼, SE¼NW¼NW¼SE¼, NE¼NE¼SW¼SE¼, E½SE¼SE¼, N½NW¼SE¼SE¼, SE¼NW¼SE¼SE¼;
Sec. 22, E½NE¼NE¼, SE¼NW¼NE¼NE¼, SW¼NE¼NE¼, S½SE¼NW¼NE¼, N½NE¼SW¼NE¼, SE¼NE¼SW¼NE¼, NE¼SE¼SW¼NE¼, SE¼NE¼, NE¼NE¼SE¼, NE¼NW¼NE¼SE¼, E½SE¼NE¼SE¼;
Sec. 23, W½NE¼NW¼, W½SE¼NE¼NW¼, W½NW¼, W½SE¼NW¼, W½E½SE¼NW¼, SE¼SE¼SE¼NW¼, N½NE¼NE¼SW¼, SW¼NE¼NE¼SW¼, W½NE¼SW¼, NW¼SW¼.

The areas described aggregate 555 acres in Santa Cruz 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.

OCTOBER 18, 1971.

[FR Doc.71-15450 Filed 10-22-71;8:46 am]

[Public Land Order 5135]

[Wyoming 29001]

WYOMING

Partial Revocation of Stock Driveway Withdrawal

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

1. The departmental order of June 20, 1918, creating Stock Driveway Withdrawal No. 23 (Wyoming No. 6), is hereby revoked so far as it affects the following described lands:

SIXTH PRINCIPAL MERIDIAN

T. 18 N., R. 88 W.,
Sec. 4, lots 2 and 4, SW¼NW¼, W½SW¼;
Sec. 8, NE¼, W½, S½SE¼, NE¼SE¼.
T. 19 N., R. 88 W.,
Sec. 28;
Sec. 34, W½.

The areas described aggregate approximately 1,759.06 acres in Carbon County.

The land lies approximately 16 miles south of Rawlins, Wyo. The terrain varies from near level to steeply rolling hills and mountains. The elevation ranges from 7,200 feet to 8,200 feet above sea level. Soils consist of shallow rocky uplands to moderately deep clay loams. Vegetation is predominantly a sagebrush-grass type.

2. At 10 a.m. on November 23, 1971, the land shall be open to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on November 23, 1971, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

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

Inquiries concerning the land should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Cheyenne, Wyo.

HARRISON LOESCH,
Assistant Secretary of the Interior.

OCTOBER 18, 1971.

[FR Doc.71-15451 Filed 10-22-71;8:46 am]

[Public Land Order 5136]

[Oregon 6363]

OREGON

Withdrawal for Administrative Site and Recreation Area

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

1. Subject to valid existing rights, the following described land is hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, and reserved for use of the Department of Agriculture for Marys Peak Lookout, an electronic communication site, and a recreation area:

WILLAMETTE MERIDIAN

MARYS PEAK LOOKOUT

T. 12 S., R. 7 W.,
Sec. 28, NE¼NW¼.

The area described contains approximately 40 acres in Benton County.

2. The withdrawal made by this order does not alter the applicability of the public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than the mining laws. However, leases, licenses, or permits will be issued only if the Department of Agriculture finds that the proposed use of the land will not interfere with the proper operation of its facilities on the land.

HARRISON LOESCH,
Assistant Secretary of the Interior.

OCTOBER 18, 1971.

[FR Doc.71-15469 Filed 10-22-71;8:47 am]

[Public Land Order 5137]

[Wyoming 28972]

WYOMING

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. § 300 (1964), it is ordered as follows:

1. The departmental order of January 29, 1952, creating Stock Driveway Withdrawal No. 49, is hereby revoked so far as it affects the following described lands:

SIXTH PRINCIPAL MERIDIAN

T. 51 N., R. 96 W.,
Sec. 23, lots 26 and 27;
Sec. 26, NE¼NE¼.

The area described contains 57.37 acres in Big Horn County.

The land lies approximately 4 miles south of Burlington, Wyo. A portion of the land lies under an irrigation canal and the remainder is gently rolling saltbush grazing land of low carrying capacity.

2. At 10 a.m. on November 23, 1971, the land shall be open to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on November 23, 1971, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

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

Inquiries concerning the land should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Cheyenne, Wyo.

HARRISON LOESCH,
Assistant Secretary of the Interior.

OCTOBER 18, 1971.

[FR Doc.71-15470 Filed 10-22-71;8:46 am]

[Public Land Order 5138]

[Arizona 06719, 09240, 010798]

ARIZONA

Modification and Partial Revocation of Public Land Order No. 1545, as Amended

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. 1545 of November 6, 1957, as amended by Public Land Orders No. 3272 of November 30, 1963, No. 3878 of November 23, 1965, No. 4754 of December 30, 1969, No. 4797 of April 14, 1970, withdrawing from all forms of appropriation under the public land laws, including the mining laws, certain national forest lands for a lookout station, picnic ground, administrative site, 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 MERIDIAN

[Arizona 06719]

COCONINO NATIONAL FOREST

Moqui Lookout Station

T. 14 N., R. 11 E.,
Sec. 27, SE¼SW¼SE¼, SW¼SE¼SE¼.

[Arizona 09240]

TONTO NATIONAL FOREST

Sunflower Picnic Ground

T. 6 N., R. 9 E.,
Sec. 17, SW¼SW¼NE¼, N½NE¼SW¼NW¼, N½NW¼SE¼NW¼, SE¼NW¼SE¼NW¼, E½SW¼SE¼NW¼, SE¼SE¼NW¼.

Sunflower Administrative Site

T. 6 N., R. 8 E.,
Sec. 1, lots 1 and 2, S½NE¼, N½SE¼.
T. 6 N., R. 9 E.,
Sec. 6, lots 8 to 13, inclusive, S½NE¼, SE¼NW¼, NE¼SW¼.

Sycamore Creek Public Use Area

T. 4 N., R. 8 E.,
Sec. 16, SE¼NE¼NW¼, NE¼SE¼NW¼.

[Arizona 010798]

SITGREAVES NATIONAL FOREST

Woods Canyon Lake Recreation Area

T. 11 N., R. 13 E.,
Sec. 13, SW¼;
Sec. 14, S½SW¼NE¼, SE¼SE¼NW¼, SE¼;
Sec. 23, E½SE¼NE¼, NE¼NE¼SE¼;
Sec. 24, W½W½NW¼, W½NW¼SW¼, NW¼SW¼SW¼.

Fool Hollow Lake Recreation Area

T. 10 N., R. 21 E.,
Sec. 11, NE¼SE¼, SW¼SE¼SE¼, E½SE¼SE¼;
Sec. 12, S½SW¼NE¼, S½NW¼, NE¼NE¼SW¼, E½NW¼NE¼SW¼, NW¼NW¼NE¼SW¼, NE¼SW¼NE¼SW¼, N½SE¼NE¼SW¼, N½NE¼NW¼SW¼, NW¼NW¼SW¼, N½SW¼NW¼SW¼, S½S½S½SW¼, N½SE¼, SW¼SE¼, N½NW¼SE¼SE¼;
Sec. 13, N½NW¼NW¼;
Sec. 14, E½NE¼NE¼, SW¼NE¼NE¼, W½SE¼NE¼.

The area described aggregates approximately 1,593.50 acres in Coconino, Maricopa, and Navajo Counties.

2. At 10 a.m. on November 23, 1971, the lands described in paragraph 1 will be open to such forms of disposal as may by law be made of national forest lands, except appropriation under the U.S. mining laws.

3. Public Land Order No. 1545 of November 6, 1957, is hereby revoked so far as it affects the following described lands:

[Arizona 010798]

SITGREAVES NATIONAL FOREST

Pinetop Recreation Area

T. 8 N., R. 23 E.,
Sec. 4, NE¼NE¼, E½NW¼NE¼, S½NE¼SW¼NW¼NE¼, S½SW¼NW¼NE¼, S½NE¼, S½;
Sec. 8, lots 2, 3 and 4;
Sec. 9, lots 1 to 4, inclusive, NE¼, N½NW¼, SE¼NW¼;
Sec. 10, lots 5 and 7, W½NW¼.

The area described aggregates approximately 1,001.73 acres in Navajo County.

The lands have been patented pursuant to the National Forest Exchange Act of March 20, 1922, 42 Stat. 465, as amended, 16 U.S.C. § 485 (1964).

HARRISON LOESCH,
Assistant Secretary of the Interior.

OCTOBER 18, 1971.

[FR Doc.71-15452 Filed 10-22-71;8:46 am]

[Public Land Order 5139]

[Sacramento 4327]

CALIFORNIA

Addition to National Forest

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

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

MOUNT DIABLO MERIDIAN

T. 19 N., R. 18 E.,
Sec. 31, lots 4, 5, and 6 of the NW¼, lots 4, 5, and 6 of the SW¼.

The area described aggregates 475.34 acres in Sierra County.

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

HARRISON LOESCH,
Assistant Secretary of the Interior.

OCTOBER 18, 1971.

[FR Doc.71-15453 Filed 10-22-71;8:46 am]

[Public Land Order 5140]

[Wyoming 28577]

WYOMING

Withdrawal for National Forest Administrative Site and Recreation Areas

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:

MEDICINE BOW NATIONAL FOREST

SIXTH PRINCIPAL MERIDIAN

Boswell Creek Campground

T. 12 N., R. 78 W.,
Sec. 22, lot 1;
Sec. 23, lot 4.

Miller Lake Campground

T. 13 N., R. 78 W.,
Sec. 28, SW¼NE¼, NE¼NW¼SE¼.

North French Creek Administrative Site

T. 16 N., R. 80 W.,
Sec. 27, W½SW¼NW¼;
Sec. 28, E½E½SE¼NE¼.

Bow River Campground

T. 18 N., R. 80 W.,
Sec. 22, SW¼SE¼.

Hog Park Reservoir Recreation Area

T. 12 N., R. 84 W.,
Sec. 5, SE¼NE¼SW¼, S½SW¼, SW¼NW¼SE¼, SW¼SE¼;
Sec. 6, lots 2, 3, SW¼NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 7, N½NE¼, SE¼NE¼;
Sec. 8, NW¼.

Haskins Creek Campground

T. 14 N., R. 86 W.,
Sec. 27, W½NE¼SE¼.

The areas described aggregate 1,065.65 acres in Albany and Carbon Counties.

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.

OCTOBER 18, 1971.

[FR Doc.71-15471 Filed 10-22-71;8:48 am]

[Public Land Order 5141]

[Montana 17099]

MONTANA

Revocation of National Forest Withdrawals for Ski Area, Campground, and Administrative Sites

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

1. The departmental orders of November 19, 1906, September 5, 1907, March 12, 1908, May 6, 1908, February 4, 1909, and Public Land Order No. 1843 of May 4, 1959, withdrawing national forest lands for a ski area, a campground, and administrative sites, are hereby revoked so far as they affect the following described lands:

DEERLODGE NATIONAL FOREST

PRINCIPAL MERIDIAN

Pipestone Ski Area

T. 1 N., R. 7 W.,
Sec. 11, NW¼, N½SW¼, W½NE¼.

Dry Cottonwood Creek Administrative Site

T. 5 N., R. 8 W.,
Sec. 6, N½S½NE¼SW¼;
Sec. 7, NE¼NW¼, N½SE¼NW¼.

Burnt Hollow Administrative Site

T. 7 N., R. 8 W.,
Sec. 28, lots 4, 5, 6, 7.

Ranger Rest Administrative Site

T. 6 N., R. 11 W.,
Sec. 13, those portions of a metes and bounds description lying within the S½ of surveyed lot 1, the N½NE¼ of surveyed lot 7, as delineated on the master title plats on file in the Montana State Office, Bureau of Land Management.

Crevice Creek Administrative Site

T. 9 N., R. 11 W.,
Secs. 20, 28, 29, a total of 55 acres described by metes and bounds within these sections, as delineated on the master title plats on file in the Montana Sate Office, Bureau of Land Management.

Camp Frogpond Administrative Site

T. 3 N., R. 17 W.,
Sec. 12, a total of 40 acres described by metes and bounds within this section, as delineated on the master title plats on file in the Montana State Office, Bureau of Land Management.

Flume Creek Campground

T. 5 N., R. 17 W., unsurveyed
Sec. 2, SW¼SW¼.

The areas described aggregate approximately 697.61 acres in Silver Bow, Deer Lodge, Powell, and Granite Counties.

2. At 10 a.m. on November 23, 1971, the lands shall be open to such forms of disposition as may by law be made of national forest lands.

HARRISON LOESCH,
Assistant Secretary of the Interior.

OCTOBER 18, 1971.

[FR Doc.71-15472 Filed 10-22-71;8:48 am]

Title 50—WILDLIFE AND FISHERIES

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

PART 32—HUNTING

Crab Orchard National Wildlife Refuge, Illinois

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (10-23-71).

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

ILLINOIS

CRAB ORCHARD NATIONAL WILDLIFE REFUGE

Public hunting of ducks and coots on the Crab Orchard National Wildlife Refuge, Ill., is permitted from October 23 through December 11, 1971, and the hunting of geese is permitted from November 15 through December 31, 1971, but only on the area designated by signs as open to hunting. This open area comprising 12,380 acres is delineated on a map available at refuge headquarters, Carterville, Ill., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Season for hunting geese will be closed when a kill quota of 28,000 Canada geese is reached in the State of Illinois. Hunting will be in accordance with all applicable State and Federal regulations subject to the following special conditions:

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

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

(3) All persons hunting geese on the refuge public hunting area must register before entering and upon leaving the area and must register any geese taken on the area at the locations designated by the project manager.

(4) Hunting will not be permitted at the Carterville Beach area as posted by the project manager.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuges generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 31, 1971.

S. G. JORGENSEN,
Acting Regional Director.

OCTOBER 1, 1971.

[FR Doc.71-15454 Filed 10-22-71;8:46 am]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Parts 1, 301]

CAPITAL LOSSES

Notice of Proposed Rule Making

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by November 22, 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 November 22, 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, unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

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

In order to conform the Income Tax Regulations (26 CFR Part 1) and the Regulations on Procedure and Administration (26 CFR Part 301) under sections 165, 246, 381, 481, 535, 1211, 1212, 1222, 1314, 6411, 6501, 6511, 6601, and 6611 to sections 214(b)(2), 230(a), and 232(d)(4) of the Revenue Act of 1964 (78 Stat. 55, 99, 111), sections 23(a) of the Act of February 26, 1964 (Public Law 88-272, 78 Stat. 19), sections 3 (b), (c), (d), and (e), and 7(a) of the Act of September 2, 1964 (Public Law 88-571, 78 Stat. 857, 858, 861), sections 2 (b) and (f) and 3(a) of the Act of November 2, 1966 (Public Law 89-721, 80 Stat. 1150, 1151), section 2 (b), (c), (d), (e), and (f) of the Act of December 27, 1967 (Public Law 90-225, 81 Stat. 731, 732), and sections 512 and 513 of the Tax Reform Act of 1969 (83 Stat. 638, 642), such regulations are amended to read as follows:

PARAGRAPH 1. Paragraph (c)(3) of § 1.165-1 is amended to read as follows:

§ 1.165-1 Losses.

* * * * *

(c) *Amount deductible.* * * *

(3) A loss from the sale or exchange of a capital asset shall be allowed as a deduction under section 165(a) but only to the extent allowed in section 1211 (relating to limitation on capital losses) and section 1212 (relating to capital loss carrybacks and carryovers), and in the regulations under those sections.

* * * * *

PAR. 2. Section 1.246 is amended by revising subsection (b)(1) of section 246, by adding a new subsection (d) to such section, and by revising the historical note. These amended and added provisions read as follows:

§ 1.246 Statutory provisions; rules applying to deductions for dividends received.

SEC. 246. *Rules applying to deductions for dividends received.*

* * * * *

(b) *Limitation on aggregate amount of deductions*—

(1) *General rule.* Except as provided in paragraph (2), the aggregate amount of the deductions allowed by sections 243(a)(1), 244(a), and 245 shall not exceed 85 percent of the taxable income computed without regard to the deductions allowed by sections 172, 243(a)(1), 244(a), 245, and 247, and without regard to any capital loss carryback to the taxable year under section 1212(a)(1).

* * * * *

(d) *Cross reference.* For special rule relating to mutual savings banks, etc., to which section 593 applies, see section 596.

[Sec. 246 as amended by sec. 18 and sec. 57(c)(2), Technical Amendments Act 1958 (72 Stat. 1614, 1646); sec. 214(b)(2), Rev. Act 1964 (78 Stat. 55); sec. 434(b)(1) and sec. 512(f)(3), Tax Reform Act 1969 (83 Stat. 625, 641)]

PAR. 3. Section 1.246-2 is amended by revising paragraph (a) to read as follows:

§ 1.246-2 Limitation on aggregate amount of deductions.

(a) *General rule.* The sum of the deductions allowed by sections 243(a)(1) (relating to dividends received by corporations), 244(a) (relating to dividends received on certain preferred stock), and 245 (relating to dividends received from certain foreign corporations), except as provided in section 246(b)(2) and in paragraph (b) of this section, is limited to 85 percent of the taxable income of the corporation. The taxable income of the corporation for this purpose is computed without regard to the net operating loss deduction allowed by section 172, the deduction for dividends paid on certain preferred stock of public utilities allowed by section 247, any capital loss carryback under section 1212(a)(1), and the deductions provided in sections 243 (a)(1), 244(a), and 245. For definition of the term "taxable income", see section 63.

* * * * *

PAR. 4. Section 1.381(b) is amended by revising paragraph (3) of section 381(b) and the historical note to read as follows:

§ 1.381 Statutory provisions; carryovers in certain corporate acquisitions; operating rules.

SEC. 381. *Carryovers in certain corporate acquisitions.* * * *

(b) *Operating rules.* * * *

(3) The corporation acquiring property in a distribution or transfer described in subsection (a) shall not be entitled to carry back a net operating loss or a net capital loss for a taxable year ending after the date of distribution or transfer to a taxable year of the distributor or transferor corporation.

[Sec. 381(b) as amended by sec. 512(c), Tax Refom Act 1969 (83 Stat. 639)]

PAR. 5. Section 1.481 is amended by revising paragraph (3)(A) of section 481 (b) and the historical note to read as follows:

§ 1.481 Statutory provisions; adjustments required by changes in method of accounting.

SEC. 481. *Adjustments required by changes in method of accounting.* * * *

(b) *Limitation on tax where adjustments are substantial.* * * *

(3) *Special rules for computations under paragraphs (1) and (2).* For purposes of this subsection—

(A) There shall be taken into account the increase or decrease in tax for any taxable year preceding the year of the change to which no adjustment is allocated under paragraph (1) or (2) but which is affected by a net operating loss (as defined in section 172) or by a capital loss carryback or carryover (as defined in section 1212), determined with reference to taxable years with respect to which adjustments under paragraph (1) or (2) are allocated.

* * * * *

[Sec. 481 as amended by sec. 29, Technical Amendments Act 1958 (72 Stat. 1626); sec. 512(f)(4), Tax Reform Act 1969 (83 Stat. 641)]

PAR. 6. Section 1.481-2 is amended by revising paragraph (c) (2) and (3)(iii) to read as follows:

§ 1.481-2 Limitation on tax.

* * * * *

(c) *Rules for computation of tax.* * * *

(2) The next step is to compute under section 481(b)(1) the tax attributable to the adjustments referred to in subparagraph (1) of this paragraph for the taxable year of the change and the two preceding taxable years as if an amount equal to one-third of the net amount of such adjustments had been received or accrued in each of such taxable years.

The increase in tax attributable to the adjustments for each such taxable year is the excess of the tax for such year computed with the allocation of one-third of the net adjustments to such taxable year over the tax computed without the allocation of any part of the adjustments to such year. For the purpose of computing the aggregate increase in taxes for such taxable years, there shall be taken into account the increase or decrease in tax for any taxable year preceding the taxable year of the change to which no adjustment is allocated under section 481(b)(1) but which is affected by a net operating loss under section 172 or by a capital loss carryback or carryover under section 1212, determined with reference to taxable years with respect to which adjustments under section 481(b)(1) are allocated.

* * * * *

(3) * * *

(iii) Any taxable year preceding the taxable year of the change to which no adjustment is allocated under section 481(b)(2), but which is affected by a net operating loss or by a capital loss carryback or carryover determined with reference to taxable years with respect to which such adjustments are allocated.

* * * * *

PAR. 7. Section 1.535 is amended by revising paragraphs (6) and (7) of section 535(b) and the historical note to read as follows:

§ 1.535 Statutory provisions; accumulated taxable income.

SEC. 535. *Accumulated taxable income.* * * *

(b) *Adjustments to taxable income.* * * *

(6) *Long-term capital gains.* There shall be allowed as a deduction the excess of the net long-term capital gain for the taxable year over the net short-term capital loss for such year (determined without regard to the capital loss carryback or carryover provided in section 1212) minus the taxes imposed by this subtitle attributable to such excess. The taxes attributable to such excess shall be an amount equal to the difference between—

(A) The taxes imposed by this subtitle (except the tax imposed by this part) for such year, and

(B) Such taxes computed for such year without including in taxable income the excess of the net long-term capital gain for the taxable year over the net short-term capital loss for such year (determined with regard to the capital loss carryback or carryover provided in section 1212).

(7) *Capital loss.* No allowance shall be made for the capital loss carryback or carryover provided in section 1212.

* * * * *

[Sec. 535 as amended by sec. 31, Technical Amendments Act 1958 (72 Stat. 1631); sec. 205, Small Business Tax Revision Act 1958 (72 Stat. 1680); sec. 9(d)(2), Rev. Act 1962 (76 Stat. 1001); sec. 512(f)(5), Tax Reform Act 1969 (83 Stat. 641)]

PAR. 8. Section 1.535-2 is amended by revising paragraph (g) to read as follows:

§ 1.535-2 Adjustments to taxable income.

* * * * *

(g) *Capital loss carrybacks and carryovers.* Capital losses carried to a taxable year under section 1212(a) shall have no application for purposes of computing accumulated taxable income for such year.

PAR. 9. Section 1.1211 is amended by revising subsection (b) of section 1211 and by adding a historical note. The amended and added provisions read as follows:

§ 1.1211 Statutory provisions; limitation on capital losses.

SEC. 1211. *Limitation on capital losses.* * * *

(b) *Other taxpayers*—(1) *In general.* In the case of a taxpayer other than a corporation, losses from sales or exchanges of capital assets shall be allowed only to the extent of the gains from such sales or exchanges, plus (if such losses exceed such gains) whichever of the following is smallest:

(A) The taxable income for the taxable year,

(B) $1,000, or

(C) The sum of—

(i) The excess of the net short-term capital loss over the net long-term capital gain, and

(ii) One-half of the excess of the net long-term capital loss over the net short-term capital gain.

(2) *Married individuals.* In the case of a husband or wife who files a separate return, the amount specified in paragraph (1)(B) shall be $500 in lieu of $1,000.

(3) *Computation of taxable income.* For purposes of paragraph (1), taxable income shall be computed without regard to gains or losses from sales or exchanges of capital assets and without regard to the deductions provided in section 151 (relating to personal exemptions) or any deduction in lieu thereof. If the taxpayer elects to pay the optional tax imposed by section 3, "taxable income" as used in this subsection shall read as "adjusted gross income".

[Sec. 1211 as amended by sec. 513(a), Tax Reform Act 1969 (83 Stat. 642)]

PAR. 10. Section 1.1211-1 is amended to read as follows:

§ 1.1211-1 Limitation on capital losses.

(a) *Corporations*—(1) *General rule.* In the case of a corporation, there shall be allowed as a deduction an amount equal to the sum of—

(i) Losses sustained during the taxable year from sales or exchanges of capital assets, plus

(ii) The aggregate of all losses sustained in other taxable years which are treated as a short-term capital loss in such taxable year pursuant to section 1212(a)(1),

but only to the extent of gains from such sales or exchanges of capital assets in such taxable year.

(2) *Banks.* See section 582(c) for modification of the limitation under section 1211(a) in the case of a bank, as defined in section 581.

(b) *Taxpayers other than corporations*—(1) *General rule.* In the case of a taxpayer other than a corporation, there shall be allowed as a deduction an amount equal to the sum of—

(i) Losses sustained during the taxable year from sales or exchanges of capital assets, plus

(ii) The aggregate of all losses sustained in other taxable years which are treated either as a short-term capital loss or as a long-term capital loss in such taxable year pursuant to section 1212(b),

but only to the extent of gains from sales or exchanges of capital assets in such taxable year, plus (if such losses exceed such gains) the additional allowance or transitional additional allowance deductible under section 1211(b) from ordinary income for such taxable year. The additional allowance deductible under section 1211(b) shall be determined by application of subparagraph (2) of this paragraph, and the transitional additional allowance by application of subparagraph (3) of this paragraph.

(2) *Additional allowance.* Except as otherwise provided by subparagraph (3) of this paragraph, the additional allowance deductible under section 1211(b) for taxable years beginning after December 31, 1969, shall be the least of—

(i) The taxable income for the taxable year,

(ii) $1,000, or

(iii) The sum of the excess of the net short-term capital loss over the net long-term capital gain, plus one-half of the excess of the net long-term capital loss over the net short-term capital gain.

(3) *Transitional additional allowance*—(i) *In general.* If, pursuant to the provisions of § 1.1212-1(b) and subdivision (iii) of this subparagraph, there is carried to the taxable year from a taxable year beginning before January 1, 1970, a long-term capital loss, and if for the taxable year there is an excess of net long-term capital loss over net short-term capital gain, then, in lieu of the additional allowance provided by subparagraph (2) of this paragraph, the transitional additional allowance deductible under section 1211(b) shall be the least of—

(*a*) The taxable income for the taxable year,

(*b*) $1,000, or

(*c*) The sum of the excess of the net short-term capital loss over the net long-term capital gain; that portion of the excess of the net long-term capital loss over the net short-term capital gain computed as provided in subdivision (ii) of this subparagraph; plus one-half of the remaining portion of the excess of the net long-term capital loss over the net short-term capital gain.

(ii) *Computation of specially treated portion of excess long-term capital loss over net short-term capital gain.* In determining the transitional additional allowance deductible as provided by this subparagraph, there shall be applied thereto in full on a dollar-for-dollar basis the excess of net long-term capital loss over net short-term capital gain (computed with regard to capital losses carried to the taxable year) to the extent that the long-term capital losses carried to the taxable year from taxable years beginning before January 1, 1970, as provided by § 1.1212-1(b) and subdivision (iii) of this subparagraph, exceed the sum of (*a*) the portion of the net capital gain actually realized in the taxable year (i.e., computed without regard to capital losses carried to the taxable year) which consists of net long-term capital gain actually realized in the taxable year, plus

(*b*) the amount by which the portion of the net capital gain actually realized in the taxable year (i.e., computed without regard to capital losses carried to the taxable year) which consists of net short-term capital gain actually realized in the taxable year exceeds the total of short-term capital losses carried to the taxable year from taxable years beginning before January 1, 1970, as provided by § 1.1212-1(b) and subdivision (iv) of this subparagraph. The amount by which the net long-term capital losses carried to the taxable year from taxable years beginning before January 1, 1970, exceeds the sum of (*a*) plus (*b*) shall constitute the "transitional net long-term capital loss component" for the taxable year for the purpose of this subparagraph.

(iii) *Carryover of certain long-term capital losses not utilized in computation of transitional additional allowance.* If for a taxable year beginning after December 31, 1969, the transitional net long-term capital loss component determined as provided in subdivision (ii) of this subparagraph exceeds the amount of such component applied to the transitional additional allowance for the taxable year as provided by subdivision (i) of this subparagraph and subparagraph (4)(ii) of this paragraph, then such excess shall for the purposes of this subparagraph be carried to the succeeding taxable year as long-term capital losses from taxable years beginning before January 1, 1970, for utilization in the computation of the transitional additional allowance in the succeeding taxable year as provided in subdivisions (i) and (ii) of this subparagraph. In no event, however, shall the amount of such component carried to the following taxable year as otherwise provided by this subdivision exceed the total of net long-term capital losses actually carried to such succeeding taxable year pursuant to section 1212(b) and § 1.1212-1(b).

(iv) *Carryover of certain short-term capital losses not utilized in computation of additional allowance or transitional additional allowance.* If for a taxable year beginning after December 31, 1969, the total short-term capital losses carried to such year from taxable years beginning before January 1, 1970, as provided by § 1.1212-1(b) and this subdivision exceed the sum of—

(*a*) The portion of the net capital gain actually realized in the taxable year (i.e., computed without regard to capital losses carried to the taxable year) which consists of net short-term capital gain actually realized in the taxlable year, plus

(*b*) The amount by which the portion of the net capital gain actually realized in the taxable year (i.e., computed without regard to capital losses carried to the taxable year) which consists of net long-term capital gain actually realized in the taxable year exceeds the total long-term capital losses carried to the taxable year from taxable years beginning before January 1, 1970, as provided in § 1.1212-1(b) and subdivision (iii) of this subparagraph,

then such excess shall constitute the "transitional net short-term capital loss component" for the taxable year, and to the extent such component also exceeds the net short-term capital loss applied to the transitional additional allowance for the taxable year as provided by subdivision (i) of this subparagraph and subparagraph (4)(i) of this paragraph shall be carried to the succeeding taxable year as short-term capital losses from taxable years beginning before January 1, 1970, for utilization in such succeeding taxable year in the computation of the transitional additional allowance as provided by subdivision (i) and (ii) of this subparagraph. In no event, however, shall the amount of such component so carried to the following taxable year as otherwise provided by this subdivision exceed the total of net short-term capital losses actually carried to such succeeding taxable year pursuant to section 1212(b) and § 1.1212-1(b).

(v) *Scope of rules.* The rules provided by this subparagraph are for the purpose of computing the amount of the transitional additional allowance deductible for the taxable year pursuant to the provisions of section 1212(b)(3) and this subparagraph. More specifically, their operation permits the limited use of a long-term capital loss carried to the taxable year from a taxable year beginning before December 31, 1969, in full on a dollar-for-dollar basis in computing the transitional additional allowance deductible for the taxable year. These rules have no application to, or effect upon, a determination of the character or amount of net capital gains and losses reportable in the taxable year. See paragraph (b)(1) of this section and § 1.1212-1 for the determination of the amount and character of capital gains and losses reportable in the taxable year. Further, except to the extent that their application may affect the amount of the transitional additional allowable deductible for the taxable year and thus the amount to be treated as short-term capital loss for carryover purposes under section 1212(b) and § 1.1212-1(b)(2), these rules have no effect upon a determination of the character or amount of capital losses carried to or from the taxable year pursuant to section 1212(b) and § 1.1212-1(b).

(4) *Order of application of capital losses to additional allowance or transitional additional allowance.* In applying the excess of the net short-term capital loss over the net long-term capital gain and the excess of the net long-term capital loss over the net short-term capital gain to the additional allowance or transitional additional allowance deductible under section 1211(b) and this paragraph, such excesses shall, subject to the limitations of subparagraph (2) or (3) of this paragraph, be used in the following order:

(i) First, there shall be applied to the additional allowance or transitional additional allowance the excess, if any, of the net short-term capital loss over the net long-term capital gain.

(ii) Second, if such transitional additional allowance exceeds the amount so applied thereto as provided in subdivision (i) of this subparagraph, there shall next be applied thereto as provided in subparagraph (3) of this paragraph the excess, if any, of the net long-term capital loss over the net short-term capital gain to the extent of the transitional net long-term capital loss component for the taxable year computed as provided by subdivision (ii) of subparagraph (3) of this paragraph.

(iii) Third, if such additional allowance or transitional additional allowance exceeds the sum of the amounts so applied thereto as provided in subdivisions (i) and (ii) of this subparagraph, there shall be applied thereto one-half of the balance, if any, of the excess net long-term capital loss not applied pursuant to the provisions of subdivision (ii) of this subparagraph.

(5) *Taxable years beginning prior to January 1, 1970.* For any taxable year beginning prior to January 1, 1970, subparagraphs (2) and (3) of this paragraph shall not apply and losses from sales or exchanges of capital assets shall be allowed as a deduction only to the extent of gains from such sales or exchanges, plus (if such losses exceed such gains) the taxable income of the taxpayer or $1,000, whichever is smaller.

(6) *Special rules.* (i) For purposes of section 1211(b) and this paragraph, taxable income is to be computed without regard to gains or losses from sales or exchanges of capital assets and without regard to the deductions provided in section 151 (relating to personal exemptions) or any deduction in lieu thereof. For example, the deductions available to estates and trusts under section 642(b) are in lieu of the deductions allowed under section 151, and, in the case of estates and trusts, are to be added back to taxable income for the purposes of section 1211(b) and this paragraph.

(ii) In case the tax is computed under section 3 and the regulations thereunder (relating to optional tax tables for individuals), the term "taxable income" as used in section 1211(b) and this paragraph shall be read as "adjusted gross income."

(iii) In the case of a joint return, the limitation under section 1211(b) and this paragraph, relating to the allowance of losses from sales or exchanges of capital assets, is to be computed and the net capital loss determined with respect to the combined taxable income and the combined capital gains and losses of the spouses.

(7) *Married taxpayers filing separate returns*—(i) *In general.* In the case of a husband or a wife who files a separate return for a taxable year beginning after December 31, 1969, the sum of $1,000 specified in subdivisions (ii) and (i)(b) of subparagraphs (2) and (3), respectively, of this paragraph shall instead be $500.

(ii) *Special rule.* If, pursuant to the provisions of § 1.1212-1(b) and subparagraph (3) (iii) or (iv) of this paragraph there is carried to the taxable year from a taxable year beginning before January 1, 1970, a short-term capital

loss or a long-term capital loss, the $500 specified in subdivision (i) of this subparagraph shall instead be an amount not in excess of $1,000, equal to $500 plus the total of the transitional net long-term capital loss component for the taxable year computed as provided by subparagraph (3) (ii) of this paragraph and the transitional net short-term capital loss component for the taxable year computed as provided by subparagraph (3) (iv) of this paragraph.

(8) The provisions of section 1211(b) may be illustrated by the following examples:

Example (1). A, an unmarried individual with one exemption allowable as a deduction under section 151, has the following transactions in 1970:

Taxable income exclusive of capital gains and losses		$4,400
Deduction provided by section 151		625
Taxable income for purposes of section 1211(b)		5,025
Long-term capital gain	$1,200	
Long-term capital loss	(5,300)	
Net long-term capital loss	(4,100)	
Losses to the extent of gains	(1,200)	
Additional allowance deductible under section 1211(b)		1,000

The net long-term capital loss of $4,100 is deductible in 1970 only to the extent of an additional allowance of $1,000 which is smaller than the taxable income of $5,025. Under section 1211(b) and subparagraph (2) of this paragraph, $2,000 of excess net long-term capital loss was required to produce the $1,000 additional allowance. Therefore, a net long-term capital loss of $2,100 ($4,100 minus $2,000) is carried over under section 1212(b) to the succeeding taxable year.

Example (2). B, an unmarried individual with one exemption allowable as a deduction under section 151, has the following transactions in 1970:

Taxable income exclusive of capital gains and losses		$90
Deduction provided by section 151		625
Taxable income for purposes of section 1211(b)		715
Long-term capital gain	$1,200	
Long-term capital loss	(5,200)	
Net long-term capital loss	(4,000)	
Losses to the extent of gains	(1,200)	
Additional allowance deductible under section 1211(b)		715

The net long-term capital loss of $4,000 is deductible in 1970 only to the extent of an additional allowance of $715, since the $715 of taxable income for purposes of section 1211(b) is smaller than $1,000. Under section 1211(b) and subparagraph (2) of this paragraph, $1,430 of net long-term capital loss was required to produce the $715 additional allowance. Therefore, a net long-term capital loss of $2,570 ($4,000 minus $1,430) is carried over under section 1212(b) to the succeeding taxable year. For illustration of the result if the net capital loss for the taxable year is smaller than both $1,000 and taxable income for the purposes of section 1211(b), see examples (3) and (4) of this subparagraph. For carryover of a net capital loss, see § 1.1212–1.

Example (3). A, an unmarried individual with one exemption allowable as a deduction under section 151, has the following transactions in 1971:

Taxable income exclusive of capital gains and losses		$13,300
Deduction provided by section 151		650
Taxable income for purposes of section 1211(b)		13,950
Long-term capital gain	$400	
Long-term capital loss	(600)	
Net long-term capital loss	(200)	
Short-term capital gain	900	
Short-term capita loss	(1,400)	
Net short-term capital loss	(500)	
Losses to extent of gains	(1,300)	
Additional allowance deductible under section 1211(b)		600

The $600 additional allowance deductible under section 1211(b) is the least of: (i) Taxable income of $13,950, (ii) $1,000, or (iii) the sum of the excess of the net short-term capital loss of $500 over the net long-term capital gain, plus one-half of the excess of the net long-term capital loss of $200 over the net short-term capital gain. The $600 additional allowance, therefore, consists of the net short-term capital loss of $500, plus $100 (one-half of the net long-term capital loss of $200), the total of which is smaller than both $1,000 and taxable income for purposes of section 1211(b). No amount of net capital loss remains to be carried over under section 1212(b) to the succeeding taxable year since the entire amount of the net short-term capital loss of $500 plus the entire amount of the net long-term capital loss of $200 required to produce $100 of the deduction was absorbed by the additional allowance deductible under section 1211(b) for 1971.

Example (4). A, a married individual filing a separate return with one exemption allowable as a deduction under section 151, has the following transactions in 1971:

Taxable income exclusive of capital gains and losses		$12,000
Deduction provided by section 151		650
Taxable income for purposes of section 1211(b)		12,650
Long-term capital loss	($800)	
Long-term capital gain	300	
Net long-term capital loss	(500)	
Short-term capital loss	(500)	
Short-term capital gain	600	
Net short-term capital gain	100	
Losses to the extent of gains		(900)
Additional allowance deductible under section 1211(b)		200

The excess net long-term capital loss of $400 (net long-term capital loss of $500 minus net short-term capital gain of $100) is deductible in 1971 only to the extent of an additional allowance of $200 (one-half of $400) which is smaller than both $500 (married taxpayer filing a separate return for a taxable year beginning after December 31, 1969) and taxable income for purposes of section 1211(b). Since there is no net short-term capital loss in excess of net long-term capital gains for the taxable year, the $200 additional allowance deductible under section 1211(b) consists entirely of excess net long-term capital loss. No amount of net capital loss remains to be carried over under section 1212(b) to the succeeding taxable year.

Example (5). A, an unmarried individual with one exemption allowable as a deduction under section 151, has the following transactions in 1970:

Taxable income exclusive of capital gains and losses		$13,300
Deduction provided by section 151		625
Taxable income for purposes of section 1211(b)		13,925
Long-term capital loss	($6,000)	
Long-term capital gain	2,000	
Net long-term capital loss	(4,000)	
Short-term capital gain	3,000	
Short-term capital loss carried to 1970 from 1969 under section 1212(b)(1)	(3,000)	
Net short-term capital loss	0	
Losses to the extent of gains	(5,000)	
Additional allowance deductible under section 1211(b)	1,000	

The $1,000 additional allowance deductible under section 1211(b) is the least of (i) taxable income of $13,925, (ii) $1,000, or (iii) the sum of the net short-term capital loss ($0) plus one-half of the net long-term capital loss of $4,000. The $1,000 additional allowance, therefore, consists of net long-term capital loss. Since $2,000 of the net long-term captial loss of $4,000 was required to produce the $1,000 additional allowance, the $2,000 balance of the net long-term capital loss is carried over under section 1212(b) to 1971.

Example (6). A, an unmarried individual with one exemption allowable as a deduction under section 151, has the following transactions in 1970:

Taxable income exclusive of capital gains and losses		$13,300
Deduction provided by section 151		625
Taxable income for purposes of section 1211(b)		13,925
Long-term capital gain	$5,000	
Long-term capital loss	(7,000)	
Long-term capital loss carried to 1970 from 1969 under section 1212(b)(1)	(500)	
Net long-term capital loss	(2,500)	
Short-term capital gain	1,100	
Short-term capital loss	(1,400)	
Net short-term capital loss	(300)	
Losses to extent of gains	(6,100)	
Transitional additional allowance deductible under section 1211(b)	1,000	

Because a component of the net long-term capital loss for 1970 is a $500 long-term capital loss carried to 1970 from 1969, the transitional additional allowance deductible under section 1211(b) and subparagraph (3) of this paragraph is the least of (i) taxable income of $13,925, (ii) $1,000, or (iii) the sum of the net short-term capital loss of $300, plus the net long-term capital loss for 1970, to the extent of the $500 long-term capital loss carried to 1970 from 1969 and one-half of the $2,000 balance of the net long-term capital loss. The entire $500 long-term capital loss carried to 1970 from 1969 is

applicable in full to the transitional additional allowance because there was no net capital gain actually realized in 1970. The $1,000 transitional additional allowance, therefore, consists of the net short-term capital loss of $300, the $500 long-term capital loss carried to 1970 from 1969, plus one-half of enough of the balance of the 1970 net long-term capital loss ($400) to make up the $200 balance of the $1,000 transitional additional allowance. A long-term capital loss of $1,600 ($2,500 minus $900), all of which is attributable to 1970, is carried over under section 1212(b) to 1971.

Example (7). A, an unmarried individual with one exemption allowable as a deduction under section 151, has the following transactions in 1970:

Taxable income exclusive of capital gains and losses		$13,300
Deduction provided by section 151		625
Taxable income for purposes of section 1211(b)		13,925
Long-term capital loss	($2,000)	
Long-term capital loss carried to 1970 from 1969 under section 1212(b)(1)	(500)	
Net long-term capital loss	(2,500)	
Short-term capital gain	2,600	
Short-term capital loss carried to 1970 from 1969 under section 1211(b)(1)	(3,000)	
Net short-term capital loss	(400)	
Losses to the extent of gains	(2,600)	
Transitional additional allowance deductible under section 1211(b)	1,000	

Because a component of the net long-term capital loss for 1970 is a $500 long-term capital loss carried to 1970 from 1969, the transitional additional allowance deductible under section 1211(b) and subparagraph (3) of this paragraph is the least of (i) taxable income of $13,925, (ii) $1,000, or (iii) the sum of the net short-term capital loss of $400, plus the net long-term capital loss for 1970 to the extent of the $500 long-term capital loss carried to 1970 from 1969, and one-half of the $2,000 balance of the net long-term capital loss. The entire $500 long-term capital loss carried to 1970 from 1969 is applicable in full to the transitional additional allowance because the net capital gain for the taxable year (computed without regard to capital losses carried to the taxable year) consisted entirely of net short-term capital loss not in excess of the short-term capital loss carried to 1970 from 1969. The $1,000 transitional additional allowance, therefore, consists of the net short-term capital loss of $400, the $500 long-term capital loss carried to 1970 from 1969, plus one-half of enough of the balance of the 1970 net long-term capital loss ($200) to make up the $100 balance of the $1,000 transitional additional allowance. A long-term capital loss of $1,800 ($2,500 minus $700), all of which is attributable to 1970, is carried over under section 1212(b) to 1971.

Example (8). Assume the facts in Example (7) but assume that the individual with one exemption allowable as a deduction under section 151 is married and files a separate return for 1970. The maximum transitional additional allowance to which the individual would be entitled for 1970 pursuant to subparagraph (7)(ii) of this paragraph would be the sum of $500 plus (i) $2,400 of the short-term capital loss of $3,000 carried to 1970 from 1969 (the amount by which such carryover exceeds the $600 net capital gain actually realized in 1970, all of which is net short-term capital gain) and (ii) the $500 long-term capital loss carried to 1970 from 1969. However, since this sum ($3,400) exceeds $1,000, the maximum transitional additional allowance to which the individual is entitled for 1970 is limited to $1,000. If for 1971, the same married individual had taxable income of $13,925 for purposes of section 1211(b) and no capital transactions, and filed a separate return, the additional allowance deductible under section 1211(b) for 1971 would be limited to $500 by reason of subdivision (i) of subparagraph (7) of this paragraph, since, as illustrated in Example (7), no part of the capital loss carried over to 1971 under section 1212(b) is attributable to 1969.

Example (9). B, an unmarried individual with one exemption allowable as a deduction under section 151, has the following transactions in 1971:

Taxable income exclusive of capital gains and losses		$10,000
Deductions provided by section 151		650
Taxable income for purposes of section 1211(b)		10,650
Long-term capital gain	$2,500	
Long-term capital loss treated under § 1.1211-1(b)(3)(iii) as carried over from 1969	(5,000)	
Net long-term capital loss	(2,500)	
Short-term capital gain	2,700	
Short-term capital loss carried to 1971 from 1970 under section 1212(b)(1)	(1,000)	
Short-term capital loss treated under § 1.1211-1(b)(3)(iv) as carried over from 1969	(2,000)	
Net short-term capital loss	(300)	
Losses to extent of gain	(5,200)	
Transitional additional allowance deductible under section 1211(b)	1,000	

Because a component of the net long-term capital loss for 1971 is a long-term capital loss treated under subparagraph (3)(iii) of this paragraph as carried over from 1969, the rules for computation of the transitional additional allowance under subparagraph (3)(i) and (ii) of this paragraph apply. The "transitional net long-term capital loss component" for 1971 under subparagraph (3)(ii) of this paragraph is $1,800, that is, the amount by which the $5,000 long-term loss treated as carried over from 1969 to 1971 exceeds (*a*) the net long-term capital gain of $2,500 actually realized in 1971 plus (*b*) the $700 excess of the $2,700 net short-term capital gain actually realized in 1971 over the $2,000 short-term capital loss treated as carried over to 1971 from 1969. The transitional additional allowance for 1971 consists of the $300 net short-term capital loss plus $700 of the net long-term capital loss attributable to 1969. A net long-term capital loss of $1,800 ($2,500 minus $700) is carried over to 1972 under section 1212(b). Only $1,100 of the $1,800 will be treated in 1972 as carried over from 1969 since under subparagraph (3)(iii) of this paragraph the "transitional net long-term capital loss component" of $1,800 is reduced by the amount ($700) applied to the transitional additional allowance for 1971.

PAR. 11. Section 1.1212 is amended by revising the heading of such section, by revising the heading and subsections (a)(1) and (b) of section 1212, by adding new paragraphs (3) and (4) to section 1212(a), and by revising the historical note. The amended and added provisions read as follows:

§ 1.1212 Statutory provisions; capital loss carrybacks and carryovers.

SEC. 1212. *Capital loss carrybacks and carryovers*—(a) *Corporations*—(1) *In general.* If a corporation has a net capital loss for any taxable year (hereinafter in this paragraph referred to as the "loss year"), the amount thereof shall be—

(A) A capital loss carryback to each of the 3 taxable years preceding the loss year, but only to the extent—

(i) Such loss is not attributable to a foreign expropriation capital loss, and

(ii) The carryback of such loss does not increase or produce a net operating loss (as defined in section 172(c)) for the taxable year to which it is being carried back; and

(B) A capital loss carryover to each of the 5 taxable years (10 taxable years to the extent such loss is attributable to a foreign expropriation capital loss) succeeding the loss year,

and shall be treated as a short-term capital loss in each such taxable year. The entire amount of the net capital loss for any taxable year shall be carried to the earliest of the taxable years to which such loss may be carried, and the portion of such loss which shall be carried to each of the other taxable years to which such loss may be carried shall be the excess, if any, of such loss over the total of the net capital gains for each of the prior taxable years to which such loss may be carried. For purposes of the preceding sentence, the net capital gain for any such prior taxable year shall be computed without regard to the net capital loss for the loss year or for any taxable year thereafter. In the case of any net capital loss which cannot be carried back in full to a preceding taxable year by reason of clause (ii) of subparagraph (A), the net capital gain for such prior taxable year shall in no case be treated as greater than the amount of such loss which can be carried back to such preceding taxable year upon the application of such clause (ii).

* * * * *

(3) *Electing small business corporations.* Paragraph (1)(A) shall not apply to the net capital loss of a corporation for any taxable year for which it is an electing small business corporation under subchapter S, and a net capital loss of a corporation (for a year for which it is not such an electing small business corporation) shall not be carried back under paragraph (1)(A) to a taxable year for which it is an electing small business corporation.

(4) *Special rules on carrybacks.* A net capital loss of a corporation shall not be carried back under paragraph (1)(A) to a taxable year—

(A) For which it is a foreign personal holding company (as defined in section 552);

(B) For which it is a regulated investment company (as defined in section 851);

(C) For which it is a real estate investment trust (as defined in section 856); or

(D) For which an election made by it under section 1247 is applicable (relating to election by foreign investment companies to distribute income currently).

(b) *Other taxpayers*—(1) *In general.* If a taxpayer other than a corporation has a net capital loss for any taxable year—

(A) The 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

(B) The 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.

(2) *Special rules.* (A) For purposes of determining the excess referred to in paragraph (1)(A), an amount equal to the amount allowed for the taxable year under section 1211(b)(1) (A), (B), or (C) shall be treated as a short-term capital gain in such year.

(B) For purposes of determining the excess referred to in paragraph (1)(B), an amount equal to the sum of—

(i) The amount allowed for the taxable year under section 1211(b)(1) (A), (B), or (C), and

(ii) The excess of the amount described in clause (i) over the net short-term capital loss (determined without regard to this subsection) for such year,

shall be treated as a short-term capital gain in such year.

(3) *Transitional rule.* In the case of any amount which, under paragraph (1) and section 1211(b) (as in effect for taxable years beginning before January 1, 1970), is treated as a capital loss in the first taxable year beginning after December 31, 1969, paragraph (1) and section 1211(b) (as in effect for taxable years beginning before January 1, 1970) shall apply (and paragraph (1) and section 1211(b) as in effect for taxable years beginning after December 31, 1969, shall not apply) to the extent such amount exceeds the total of any net capital gains (determined without regard to this subsection) of taxable years beginning after December 31, 1969.

[Sec. 1212 as amended by sec. 230(a), Rev. Act 1964 (78 Stat. 99); sec. 7(a), Act of Sept. 2, 1964 (Public Law 88-571, 78 Stat. 861); sec. 512 (a) and (b) and sec. 513(b), Tax Reform Act 1969 (83 Stat. 638, 639, 642)]

PAR. 12. Section 1.1212-1 is amended by revising the heading of such section, by revising subdivision (i) of paragraph (a)(1), by adding a new subparagraph (3) to paragraph (a), and by revising paragraph (b). The amended and added provisions read as follows:

§ 1.1212-1 Capital loss carryovers and carrybacks.

(a) *Corporations; other taxpayers for taxable years beginning before January 1, 1964*—(1) *Regular net capital loss sustained for taxable years beginning before January 1, 1970.* (i) A corporation sustaining a net capital loss for any taxable year beginning before January 1, 1970, and a taxpayer other than a corporation sustaining a net capital loss for any taxable year beginning before January 1, 1964, shall carry over such net loss to each of the 5 succeeding taxable years and treat it in each of such 5 succeeding taxable years as a short-term capital loss to the extent not allowed as a deduction against any net capital gains of any taxable years intervening between the taxable year in which the net capital loss was sustained and the taxable year to which carried. The carryover is thus applied in each succeeding taxable year to offset any net capital gain in such succeeding taxable year. The amount of the capital loss carryover may not be included in computing a new net capital loss of a taxable year which can be carried over to the next 5 succeeding taxable years. For purposes of this subparagraph, a net capital gain shall be computed without regard to capital loss carryovers or carrybacks. In the case of nonresident alien individuals, see section 871 for special rules on capital loss carryovers. For the rules applicable to the portion of a net capital loss of a corporation which is attributable to a foreign expropriation capital loss sustained in taxable years beginning after December 31, 1958, see subparagraph (2) of this paragraph. For the rules applicable to a taxpayer other than a corporation in the treatment of that amount of a net capital loss which may be carried over under section 1212 and this subparagraph as a short-term capital loss to the first taxable year beginning after December 31, 1963, see paragraph (b) of this section.

* * * * *

(3) *Regular net capital loss sustained by a corporation for taxable years beginning after December 31, 1969*—(i) *General rule.* A corporation sustaining a net capital loss for any taxable year beginning after December 31, 1969 (hereinafter in this paragraph referred to as the "loss year"), shall—

(*a*) Carry back such net capital loss to each of the 3 taxable years preceding the loss year, but only to the extent that such net capital loss is not attributable to a foreign expropriation capital loss and the carryback of such net capital loss does not increase or produce a net operating loss (as defined in section 172 (c)) for the taxable year to which it is carried back; and

(*b*) Carry over such net capital loss to each of the 5 taxable years succeeding the loss year,

and, subject to subdivision (ii) of this subparagraph, treat such net capital loss in each of such 3 preceding and 5 succeeding taxable years as a short-term capital loss.

(ii) *Amount treated as a short-term capital loss in each year.* The entire amount of the net capital loss for any loss year shall be carried to the earliest of the taxable years to which such net capital loss may be carried, and the portion of such net capital loss which shall be carried to each of the other taxable years to which such net capital loss may be carried shall be the excess, if any, of such net capital loss over the total of the net capital gains (computed without regard to the capital loss carryback from the loss year or any taxable year thereafter) for each of the prior taxable years to which such net capital loss may be carried.

(iii) *Special rules.* (*a*) In the case of a net capital loss which is not a foreign expropriation capital loss and which cannot be carried back in full to a preceding taxable year by reason of section 1212(a)(1)(A)(ii) and subdivision (i)(*a*) of this subparagraph because such loss would produce or increase a net operating loss in such preceding taxable year, the net capital gain for such preceding taxable year shall in no case be treated as greater than the amount of such net capital loss which can be carried back to such preceding taxable year upon the application of section 1212(a)(1)(A)(ii) and subdivision (i)(*a*) of this subparagraph.

(*b*) For the rules applicable to the portion of a net capital loss of a corporation which is attributable to a foreign expropriation capital loss sustained in a taxable year beginning after December 31, 1958, see section 1212(a)(2) and subparagraph (2) of this paragraph.

(*c*) Section 1212(a)(1)(A) and subdivision (i)(*a*) of this subparagraph shall not apply to (and no carryback shall be allowed with respect to) the net capital loss of a corporation for any taxable year for which such corporation is an electing small business corporation under subchapter S. See § 1.1372-1.

(*d*) A net capital loss of a corporation for a year for which it is not an electing small business corporation under subchapter S shall not be carried back under section 1212(a)(1)(A) and subdivision (i)(*a*) of this subparagraph to a taxable year for which such corporation is an electing small business corporation. See section 1212(a)(3).

(*e*) A net capital loss of a corporation shall not be carried back under section 1212(a)(1)(A) and subdivision (i)(*a*) of this subparagraph to a taxable year for which the corporation was a foreign personal holding company, a regulated investment company, or a real estate investment trust, or for which an election made by the corporation under section 1247 is applicable. See section 1212(a)(4).

(*f*) A taxable year to which a net capital loss of a corporation cannot, by reason of (*d*) or (*e*) of this subdivision, be carried back under section 1212(a)(1)(A) and subdivision (i)(*a*) of this subparagraph shall nevertheless be treated as 1 of the 3 taxable years preceding the loss year for purposes of section 1212(a)(1)(A) and such subdivision (i)(*a*); but any net capital gains for such taxable year to which such net capital loss cannot be carried back shall be disregarded for purposes of subdivision (ii) of this subparagraph.

(iv) The application of this subparagraph may be illustrated by the following examples, in each of which it is assumed that the corporation is not, and never has been, a corporation described in subdivision (iii) (*c*) or (*d*) of this subparagraph, that the corporation files its tax returns on a calendar year basis, and that no capital loss sustained is a foreign expropriation capital loss:

Example (1). A corporation has a net capital loss for 1970 which section 1212(a)(1)(A) permits to be carried back. The entire net capital loss for 1970 may be carried back to 1967, but only to the extent that a net operating loss for 1967 would not be produced or increased. The amount of the carryback to 1968 is the excess of the net capital loss for 1970 over the net capital gain for 1967, computed without regard to a capital loss carryback from 1970 or any taxable year thereafter. The amount of the carryback to 1969 is the excess of the net

capital loss for 1970 over the sum of the net capital gains for 1967 and 1968, computed without regard to a capital loss carryback from 1970 or any taxable year thereafter. The amount of the carryover to 1971 is the excess of the net capital loss for 1970 over the sum of the net capital gains for 1967, 1968, and 1969, computed without regard to a capital loss carryback from 1970 or any taxable year thereafter. Similarly, the amount of the carryover to 1972, 1973, 1974, and 1975, respectively, is the excess of the net capital loss for 1970 over the sum of the net capital gains for taxable years prior to 1972, 1973, 1974, or 1975, as the case may be, to which the net capital loss for 1970 may be carried, computed without regard to a capital loss carryback from 1970 or any year thereafter.

Example (2). For the taxable years 1967 to 1975, inclusive, a corporation is assumed to have net capital loss, net capital gain, and taxable income (computed without regard to capital gains and losses) as follows:

	1967	1968	1969	1970	1971	1972	1973	1974	1975
Taxable income (computed without regard to capital gains or losses)	$25,000	$25,000	$25,000	$25,000	$25,000	$25,000	$25,000	$25,000	$25,000
Net capital loss			(1,000)	(29,500)	(16,000)	(500)			
Net capital gain (computed without regard to carrybacks or carryovers)	14,000	16,000					8,000	7,500	6,500
Carryback or carryover:									
From 1969							(1,000)		
From 1970	(14,000)	(15,500)							
From 1971		(500)					(7,000)	(7,500)	(1,000)
From 1972									(500)

The net capital loss of 1969, under the rules of subparagraph (1) of this paragraph, may not be carried back. Thus, the net capital loss for 1970 is carried back and partially absorbed by the net capital gain for 1967, and a portion of the net capital losses of both 1970 and 1971 are carried back to 1968. The net capital loss for 1969 is the oldest that may be carried to 1973, and thus, it is the first carried over and absorbed by the net capital gain for 1973. The net capital loss for 1972 (which is not carried back because of the net capital losses in the 3 years preceding 1972) may be carried over to 1973.

Example (3). For the taxable years 1967 to 1970, inclusive, a corporation which was organized on January 1, 1967, realized operating income and net capital gains and sustained operating losses and net capital losses as follows:

	Operating income or loss (exclusive of capital gain or loss)	Capital gain or loss
1967	$20,000	$24,000
1968	20,000	0
1969	20,000	0
1970	(25,000)	(20,000)

The net capital loss of $20,000 for 1970 is carried back to 1967 and applied against the $24,000 net capital gain realized in that year, reducing such net capital gain to $4,000. The net operating loss of $25,000 for 1970 is then carried back to 1967 and applied first to eliminate the $20,000 of operating income for that year and then to eliminate the net capital gain for that year of $4,000 (as reduced by the 1970 capital loss carryback).

Example (4). Assume the same facts as in Example (3) but substitute the following figures:

	Operating income or loss (exclusive of capital gain or loss)	Capital gain or loss
1967	($20,000)	$24,000
1968	20,000	0
1969	20,000	0
1970	(25,000)	(20,000)

The net capital loss of $20,000 for 1970 is carried back to 1967 and applied against the $24,000 net capital gain realized in that year only to the extent of $4,000, the maximum amount to which the 1970 capital loss carryback can be applied without producing a net operating loss for 1967. The unused $16,000 balance of the 1970 net long-term capital loss can be carried forward to 1971 and subsequent taxable years to the extent provided in subdivision (i)(*b*) of this subparagraph.

Example (5). Assume the same facts as in Example (3) but substitute the following figures:

	Operating income or loss (exclusive of capital gain or loss)	Capital gain or loss
1967	0	0
1968	($20,000)	0
1969	0	$24,000
1970	20,000	(24,000)

The net capital loss of $24,000 for 1970 is carried back to 1969 and applied against the $24,000 net capital gain realized in that year to the extent of $24,000. The application of the capital loss carryback is not limited as it was in Example (4) because such carryback neither increases nor produces a net operating loss, as such, for 1969. The $20,000 net operating loss for 1968 is then carried forward to 1970 to eliminate the $20,000 of operating income for that year.

Example (6). Assume the same facts as in Example (3) but substitute the following figures:

	Operating income or loss (exclusive of capital gain or loss)	Capital gain or loss
1967	0	0
1968	0	0
1969	($20,000)	($24,000)
1970	20,000	20,000

The net capital loss of $24,000 for 1969 is carried forward to 1970 and applied against the $20,000 net capital gain realized in that year. The unused $4,000 balance of the 1969 net capital loss can be carried forward to 1971 and subsequent taxable years to the extent provided in subdivision (i)(*b*) of this subparagraph.

(b) *Taxpayers other than corporations for taxable years beginning after December 31, 1963*—(1) *In general.* If a taxpayer other than a corporation sustains a net capital loss for any taxable year beginning after December 31, 1963, the portion thereof which is a short-term capital loss carryover shall be carried over to the succeeding taxable year and treated as a short-term capital loss sustained in such succeeding taxable year, and the portion thereof which constitutes a long-term capital loss carryover shall be carried over to the succeeding taxable year and treated as a long-term capital loss sustained in such succeeding taxable year. The carryovers are included in the succeeding taxable year in the determination of the amount of the short-term capital loss, the net short-term capital gain or loss, the long-term capital loss, and the net long-term capital gain or loss in such year, the net capital loss in such year, and the capital loss carryovers from such year. For purposes of this subparagraph—

(i) A short-term capital loss carryover is the excess of the net short-term capital loss for the taxable year over the net long-term capital gain for such year, and

(ii) A long-term capital loss carryover is the excess of the net long-term capital loss for the taxable year over the net short-term capital gain for such year.

(2) *Special rules for determining a net short-term capital gain or loss for purposes of carryovers*—(i) *Taxable years beginning after December 31, 1963, and before January 1, 1970.* In determining a net short-term capital gain or loss of a taxable year beginning after December 31, 1963, and before January 1, 1970, for purposes of computing a short-term or long-term capital loss carryover to the succeeding taxable year, an amount equal to the additional allowance deductible under section 1211(b) for the taxable year (determined as provided in section 1211(b), as in effect for taxable years beginning before January 1, 1970, and § 1.1211-1(b)(5)) is treated as a short-term capital gain occurring in such year.

(ii) *Taxable years beginning after December 31, 1969.* In determining a net short-term capital gain or loss of a taxable year beginning after December 31, 1969—

(*a*) For purposes of computing a short-term capital loss carryover to the succeeding taxable year, an amount equal to the additional allowance for the taxable year (determined as provided in section 1211(b) and § 1.1211-1(b)(2)) is treated as a short-term capital gain occurring in such year, and

(*b*) For purposes of computing a long-term capital loss carryover to the succeeding taxable year, an amount equal to the sum of the additional allowance for the taxable year (determined as provided in section 1211(b) and § 1.1211-1(b)(2)), plus the excess of such additional allowance over the net short-term capital loss (determined without regard to section 1212(b)(2) for such year) is treated as a short-term capital gain in such year.

The rules provided in this subdivision are for the purpose of taking into account the additional allowance deductible for the current taxable year under section 1211(b) and § 1.1211-1(b)(2) in determining the amount and character

of capital loss carryovers from the current taxable year to the succeeding taxable year. Their practical application to a determination of the amount and character of capital loss carryovers from the current taxable year to the succeeding taxable year involves identification of the net long-term and net short-term capital loss components of the additional allowance deductible in the current taxable year as provided by § 1.1211–1(b)(2)(iii). To the extent that the additional allowance is composed of net short-term capital losses, such losses are treated as a short-term capital gain in the current taxable year in determining the capital loss carryovers to the succeeding year. To the extent that the additional allowance is composed of net long-term capital losses applied pursuant to the provisions of § 1.1211–1(b)(2)(iii), an amount equal to twice the amount of such component of the additional allowance is treated as a short-term capital gain in the current taxable year. See paragraph (4) of this section for transitional rules if any part of the additional allowance is composed of net long-term capital losses carried to the current taxable year from a taxable year beginning before January 1, 1970.

(3) *Transitional rule for net capital losses sustained in a taxable year beginning before January 1, 1964.* A taxpayer other than a corporation sustaining a net capital loss for any taxable year beginning before January 1, 1964, shall treat as a short-term capital loss in the first taxable year beginning after December 31, 1963, any amount which would be treated as a short-term capital loss in such year under subchapter P of chapter 1 of the Code as in effect immediately before the enactment of the Revenue Act of 1964.

(4) *Transitional rule for net capital losses sustained in a taxable year beginning before January 1, 1970.* In the case of a net long-term capital loss sustained by a taxpayer other than a corporation in a taxable year beginning prior to January 1, 1970 (referred to in this section as a "pre-1970 taxable year") which is carried over and treated as a long-term capital loss in the first taxable year beginning after December 31, 1969 (referred to in this section as a "post-1969 taxable year"), the transitional additional allowance deductible under section 1211(b) for the taxable year shall be determined by application of section 1211(b) as in effect for pre-1970 taxable years and § 1.1211–1(b)(3), and the amount of such long-term capital loss carried over and treated as a long-term capital loss in the succeeding taxable year shall be determined by application of section 1212(b)(1) as in effect for pre-1970 taxable years and subparagraph (2)(i) of this paragraph (instead of under sections 1211(b) and 1212(b)(1) as in effect for post-1969 taxable years and § 1.1211–1(b)(2) and subparagraph (2)(ii) of this paragraph, respectively) but only to the extent that such pre-1970 long-term capital loss constitutes a "transitional net long-term capital loss component" (determined as provided in § 1.1211–1(b)(3)(ii)) in the taxable year to which such pre-1970 long-term capital loss is carried. Thus, for purposes of paragraph (2) of this section, to the extent that a component of the transitional additional allowance deductible for a post-1969 taxable year under section 1211(b) and § 1.1211–1(b)(3)(i) is a transitional net long-term capital loss component carried over to such post-1969 taxable year, such component shall be treated as a short-term capital gain in determining the amount and character of capital loss carryovers from such post-1969 taxable year to the succeeding taxable year. Such component shall be so treated as a short-term capital gain in full on a dollar-for-dollar basis and shall not be doubled for this purpose as is provided by subdivision (ii) of paragraph (2) of this section in the case of a component of the additional allowance made up of net long-term capital losses applied pursuant to the provisions of § 1.1211–1(b)(2)(iii). The transitional rule provided in this paragraph does not apply to a determination of the character of capital losses (as long-term or short-term) actually deductible for the current taxable year under section 1211(b) and § 1.1211–1(b).

(5) The application of this paragraph can be illustrated by the following examples:

Example (1). For the taxable year 1971, an unmarried individual has taxable income for purposes of section 1211(b) of $8,000, a long-term capital loss of $2,000, and no other capital gains or losses. $1,000 (one-half) of the net long-term capital loss is deductible in 1971 as the additional allowance deductible under section 1211(b). No amount of capital loss remains to be carried over to the succeeding taxable year.

Example (2). For the taxable year 1972, the same unmarried individual has taxable income for purposes of section 1211(b) of $8,000, a long-term capital loss of $3,000 and no other capital gains or losses. $1,500 (one-half of the excess net capital loss) is deductible in 1972, but limited to the $1,000 maximum additional allowance deductible under section 1211(b). By application of section 1212(b)(1), he will carry over to 1973 a long-term capital loss of $1,000 determined as follows:

Net long-term capital loss		($3,000)
Additional allowance deductible under section 1211(b)	$1,000	
Excess of additional allowance over net short-term capital loss (determined without regard to section 1212(b)(2)(B)(i))	1,000	
Total amount treated as short-term capital gain under 1212(b)(2)(B) for purposes of determining carryover		2,000
Long-term capital loss carryover to 1973		(1,000)

If, in 1973, he had taxable income for purposes of section 1211(b) of $8,000, but no capital gains or losses, $500 (one-half) of the net long-term capital loss carryover from 1972 would be deductible in 1973 as the additional allowance deductible under section 1211(b). No amount of capital loss would be carried over to 1974.

Example (3). For the taxable year 1971, an unmarried individual has taxable income for purposes of section 1211(b) of $9,000, a $500 short-term capital gain, a $700 short-term capital loss, a $1,000 long-term capital gain and a $1,700 long-term capital loss. He will offset $1,500 of capital losses against capital gains. The excess net capital loss of $900 is deductible in 1971 to the extent of a $550 additional allowance deductible under 1211(b) which is smaller than both $1,000 and taxable income for purposes of section 1211(b), determined as follows:

Losses allowed to the extent of gains	($1,500)
Amount allowed under section 1211(b)(1)(C):	
(i) excess of net short-term capital loss over net long-term capital gain	(200)
(ii) one-half of the excess of net long-term capital loss over net short-term capital gain	(350)
Additional allowance deductible under section 1211(b)	550

The total amount treated as short-term capital gain under section 1212(b)(2)(B) for purposes of determining any carryover to the succeeding taxable year exceeds $900. No amount of net capital loss remains to be carried over to the succeeding taxable year.

Example (4). If in example (3) above, the long-term capital loss had been $2,800, the taxpayer would carry over $200 of long-term capital loss to 1972, determined as follows:

Losses allowed to extent of gains	($1,500)
Amount allowed under section 1211(b)(1)(B) and (C):	
(i) excess of net short-term capital loss over net long-term capital gain	(200)
(ii) one-half the excess of net long-term capital loss over net short-term capital gain	(900)
as limited by 1211(b)(1)(B) to an additional allowance of $1,000.	
Carryover under section 1212(b)(1):	
Net long-term capital loss for 1971	($1,800)
Additional allowance under section 1211(b)(1)(B)	1,000
Excess of additional allowance deductible under section 1211(b) over net short-term capital loss determined without regard to section 1212(b)(2)(B)(i) ($1,000 less $200)	800
Total amount treated as short-term capital gain under section 1212(b)(2)(B) for purposes of determining carryover	1,800
Short-term capital gain for 1971	500
Total short-term capital gain	2,300
Short-term capital loss for 1971	(700)
Net short-term capital gain	1,600
Long-term capital loss carryover ($1,800 less $1,600)	200

Example (5). For 1969, an unmarried individual has taken income for purposes of section 1211(b) of $8,000, a long-term capital loss of $3,000, and no other capital gains or losses. He is allowed to deduct in 1969 $1,000 as the additional allowance deductible under section 1211(b) (as in effect for pre-1970 taxable years) and to carry over to 1970, a long-term capital loss of $2,000 under section 1212(b) (as in effect for pre-1970 taxable years).

If, in 1970, the same unmarried individual with taxable income for purposes of section 1211(b) of $8,000, has no capital gains or losses, he would deduct $1,000 of his pre-1970 capital loss carryover as the transitional additional allowance deductible under section 1211(b) (as in effect for pre-1970 years) and carry over under section 1212(b)(1) (as in effect for pre-1970 taxable years) to 1971 the remaining $1,000 as a pre-1970 long-term capital loss.

If, in 1970, the same individual instead has a long-term capital gain of $2,500, and a short-term capital loss of $1,500, he would net these two items with the $2,000 carried to 1970 as a long-term capital loss. Thus, he would have a net long-term capital loss for 1970 of $1,000 which is deductible in 1970 as the transitional additional allowance deductible under section 1211(b). He would have no amount to carry over under section 1212(b)(1) to 1971.

If, in 1970, the same individual instead has a long-term capital loss of $1,200, and a long-term capital gain of $200, resulting in a net long-term capital loss of $3,000 when netted with the $2,000 carried to 1970 as a long-term capital loss, he would deduct $1,000 in respect of his pre-1970 long-term capital loss carryover as the transitional additional allowance deductible under section 1211(b) (as in effect for pre-1970 taxable years) and carry over under section 1212(b)(1) (as in effect for pre-1970 taxable years) to 1971 the remaining $1,000 of the pre-1970 component of his long-term capital loss carryover, and the $1,000 net long-term capital loss actually sustained in 1970 as the second component of his long-term capital loss carryover.

Example (6). For 1970 a married individual filing a separate return has taxable income of $8,000, a long-term capital loss of $3,500 and a short-term capital gain of $3,000. He also has a pre-1970 short-term capital loss of $2,000 which is carried to 1970. The $3,000 short-term capital gain realized in 1970 would first be reduced by the $2,000 short-term capital loss carryover, and then the remaining $1,000 balance of the short-term capital gain would be offset against the $3,500 long-term capital loss, producing a net long-term capital loss of $2,500, no part of which is a net long-term capital loss carried over from 1969. However, under the special rule in § 1.1211-1(b)(7)(ii) in 1970, the taxpayer would deduct as the additional allowance deductible under section 1211(b), the $500 limitation in § 1.1211-1(b)(2)(ii) in the case of a married taxpayer filing a separate return in a taxable year ending after December 31, 1969, plus the "transitional net short-term capital loss component" of $2,000 computed under § 1.1211-1(b)(3)(iv), but limited to a total deduction of $1,000. The $1,000 additional allowance deductible under section 1211(b) would absorb $2,000 of the $2,500 net long-term capital loss, and he would carry the unused $500 balance of such loss to 1971 for use in that year.

Example (7). For 1970, an unmarried individual filing a separate return has taxable income for purposes of section 1211(b) of $8,000, and a long-term capital loss of $2,000. He also has a pre-1970 long-term capital loss of $2,500 which is carried to 1970. In 1970, the taxpayer would deduct as the transitional additional allowance deductible under section 1211(b) $1,000, absorbing $1,000 of the pre-1970 long-term capital loss of $2,500. He would carry to 1971 the unused $1,500 balance of his pre-1970 long-term capital loss plus the 1970 long-term capital loss of $2,000, or a total of $3,500, for use in 1971.

For 1971, the same taxpayer filing a separate return with taxable income for purposes of section 1211(b) of $8,000, has a $3,600 long-term capital gain and a $2,200 long-term capital loss. When these gains and losses are combined with the long-term capital loss carryover from 1970 of $3,500, a net long-term capital loss of $2,100 results. He would deduct $1,000 as the transitional additional allowance deductible under section 1211(b). The $1,000 additional allowance would absorb $100 of the unused pre-1970 long-term capital loss carryover of $1,500 plus $1,800 of the unused post-1970 long-term capital loss carryover of $2,100 (the amount of the 1971 net long-term capital loss necessary to make up the remaining $900 balance of the additional allowance). Although a component of the 1971 net long-term capital loss is the unused pre-1970 long-term capital loss carryover of $1,500, only $100 of this carryover is available for use in full on a dollar-for-dollar basis in computing the transitional additional allowance for 1971 since it only exceeds by that amount the $1,400 net capital gain actually realized in 1971 all of which is net long-term capital gain (long-term capital gain of $3,600 reduced by long-term capital loss of $2,200). See § 1.1211-1(b)(3)(ii). The taxpayer would carry over to 1972 as a long-term capital loss the remaining $200 of the 1971 long-term capital loss.

Example (8). For 1970, an unmarried individual has taxable income for purposes of section 1211(b) of $8,000 and a short-term capital loss of $700. He also has a pre-1970 long-term capital loss carryover of $1,200. He would deduct $1,000 as the transitional additional allowance deductible under section 1211(b). The $1,000 transitional additional allowance would be composed of the 1970 short-term capital loss of $700 and $300 of the pre-1970 long-term capital loss carryover. He would carry over to 1971 the unused $900 balance of his $1,200 pre-1970 long-term capital loss carryover for use in 1971.

PAR. 14. Section 1.1222 is amended by revising paragraph (9) of section 1222 and the historical note to read as follows:

§ 1.1222 Statutory provisions; other terms relating to capital gains and losses.

Sec. 1222. *Other terms relating to capital gains and losses.*

* * * * *

(9) *Net capital gain.* The term "net capital gain" means the excess of the gains from sales or exchanges of capital assets over the losses from such sales or exchanges.

* * * * *

[Sec. 1222 as amended by sec. 230(b), Rev. Act 1964 (78 Stat. 100); sec. 513(c), Tax Reform Act 1969 (83 Stat. 643)]

PAR. 15. Section 1.1222-1 is amended by revising paragraphs (d) and (e) to read as follows:

§ 1.1222-1 Other terms relating to capital gains and losses.

* * * * *

(d)(1) The term "net capital gain" means the excess of the gains from sales or exchanges of capital assets over the losses from sales or exchanges of capital assets, which losses include any amounts carried to the taxable year pursuant to section 1212(a) or section 1212(b).

(2) Notwithstanding subparagraph (1) of this paragraph, in the case of a taxpayer other than a corporation for taxable years beginning before January 1, 1964, the term "net capital gain" means the excess of (i) the sum of the gains from sales or exchanges of capital assets, plus the taxable income (computed without regard to gains and losses from sales or exchanges of capital assets and without regard to the deductions provided by section 151, relating to personal exemptions, or any deductions in lieu thereof) of the taxpayer or $1,000, whichever is smaller, over (ii) the losses from sales or exchanges of capital assets, which losses include amounts carried to the taxable year by such taxpayer under paragraph (a)(1) of § 1.1212-1. Thus, in the case of estates and trusts for taxable years beginning before January 1, 1964, taxable income for the purposes of this paragraph shall be computed without regard to gains and losses from sales or exchanges of capital assets and without regard to the deductions allowed by section 642(b) to estates and trusts in lieu of personal exemptions. The term "net capital gain" is not applicable in the case of a taxpayer other than a corporation for taxable years beginning after December 31, 1963, and before January 1, 1970. In the case of a taxpayer whose tax liability is computed under section 3 for taxable years beginning before January 1, 1964, the term "taxable income", for purposes of this paragraph, shall be read as "adjusted gross income".

(e) The term "net capital loss" means the excess of the losses from sales or exchanges of capital assets over the sum allowed under section 1211. However, in the case of a corporation, amounts which are short-term capital losses under § 1.1212-1(a) are excluded in determining such "net capital loss".

* * * * *

PAR. 16. Section 1.1314(a) is amended by revising so much of section 1314(a) as follows paragraph (2) of such section and adding a historical note to read as follows:

§ 1.1314(a) Statutory provisions, amount and method of adjustment; ascertainment of amount of adjustment.

SEC. 1314. *Amount and method of adjustment*—(a) *Ascertainment of amount of adjustment.*

* * * * *

There shall then be ascertained the increase or decrease in tax previously determined which results solely from the correct treatment of the item which was the subject of the error (with due regard given to the effect of the item in the computation of gross income, taxable income, and other matters under this subtitle). A similar computation shall be made for any other taxable year affected, or treated as affected, by a net operating loss deduction (as defined in section 172) or by a capital loss carryback or carryover (as defined in section 1212), determined with reference to the taxable year with respect to which the error was made. The amount so ascertained (together with any amounts wrongfully collected as additions to the tax or interest, as a result of such error) for each taxable year shall be the amount of the adjustment for that taxable year.

[Sec. 1314(a) as amended by sec. 512(f)(7), Tax Reform Act 1969 (83 Stat. 641)]

PAR. 17. Section 1.1314(a)-2 is amended by revising paragraphs (a)(1) and (2), (b), and (c) to read as follows:

§ 1.1314(a)-2 Adjustment to other barred taxable years.

(a) * * *

(1) The tax liability for such other year or years must be affected, or must

have been treated as affected, by a net operating loss deduction (as defined in section 172) or by a capital loss carryback or carryover (as defined in section 1212).

(2) The net operating loss deduction or capital loss carryback or carryover must be determined with reference to the taxable year with respect to which the error was made.

* * * * *

(b) The amount of the adjustment for such other year or years shall be computed in a manner similar to that provided in § 1.1314(a)-1. The tax previously determined for such other year or years shall be ascertained. A recomputation must then be made ascertain the increase or decrease in tax, if any, resulting solely from the correction of the net operating loss deduction or capital loss carryback or carryover. The difference between the tax previously determined and the tax as recomputed is the amount of the adjustment. In the recomputation, no consideration shall be given to items other than the following: (1) The items upon which the tax previously determined for such other year or years was based, and (2) the net operating loss deduction or capital loss carryback or carryover as corrected. In determining the correct net operating loss deduction or capital loss carryback or carryover, no changes shall be made in taxable income (net income in the case of taxable years subject to the provisions of the Internal Revenue Code of 1939 or prior revenue laws), net operating loss or capital loss, for any barred taxable year, except as provided in section 1314. Section 172 and the corresponding provisions of prior revenue laws, and the regulations promulgated thereunder, prescribe the methods of computing the net operating loss deduction. Section 1212 and the corresponding provisions of prior revenue laws, and the regulations promulgated thereunder, prescribe the methods for computing the capital loss carryback and carryover.

(c) A net operating loss deduction or a capital loss carryback or carryover determined with reference to the year of the error may affect, or may have been treated as affecting, a taxable year with respect to which an adjustment is not prevented by the operation of any law or rule of law. In such case, the appropriate adjustment shall be made with respect to such open taxable year. However, the redetermination of the tax for such open taxable year is not made pursuant to part II (section 1311 and following), subchapter Q, chapter 1 of the Code, and the adjustment for such open year and the method of computation are not limited by the provisions of said sections.

* * * * *

PAR. 18. Section 1.1314(b) is amended by revising section 1314(b) and adding a historical note to read as follows:

§ 1.1314(b) Statutory provisions; amount and method of adjustment; method of adjustment.

SEC. 1314. *Amount and method of adjustment.* * * *

(b) *Method of adjustment.* The adjustment authorized in section 1311(a) shall be made by assessing and collecting, or refunding or crediting, the amount thereof in the same manner as if it were a deficiency determined by the Secretary or his delegate with respect to the taxpayer as to whom the error was made or an overpayment claimed by such taxpayer, as the case may be, for the taxable year or years with respect to which an amount is ascertained under subsection (a), and as if on the date of the determination 1 year remained before the expiration of the periods of limitation upon assessment or filing claim for refund for such taxable year or years. If, as a result of a determination described in section 1313(a)(4), an adjustment has been made by the assessment and collection of a deficiency or the refund or credit of an overpayment, and subsequently such determination is altered or revoked, the amount of the adjustment ascertained under subsection (a) of this section shall be redetermined on the basis of such alteration or revocation and any overpayment or deficiency resulting from such redetermination shall be refunded or credited, or assessed and collected, as the case may be, as an adjustment under this part. In the case of an adjustment resulting from an increase or decrease in a net operating loss or net capital loss which is carried back to the year of adjustment, interest shall not be collected or paid for any period prior to the close of the taxable year in which the net operating loss or net capital loss arises.

[Sec. 1341(b) as amended by sec. 512(f)(8), Tax Reform Act 1969 (183 Stat. 642)]

PAR. 19. Section 1.1314(b)-1 is amended by revising paragraph (c) to read as follows:

§ 1.1314(b)-1 Method of adjustment.

* * * * *

(c) The amount of an adjustment treated as if it were a deficiency or an overpayment, as the case may be, will bear interest and be subject to additions to the tax to the extent provided by the internal revenue laws applicable to deficiencies and overpayments for the taxable year with respect to which the adjustment is made. In the case of an adjustment resulting from an increase or decrease in a net operating loss or net capital loss which is carried back to the year of adjustment, interest shall not be collected or paid for any period prior to the close of the taxable year in which the net operating loss or net capital loss arises.

* * * * *

PAR. 20. Section 1.6411 is amended by revising so much of subsection (a) as precedes paragraph (1) of such subsection, subsections (a) (1) and (5), (b), and (c) of section 6411, and by adding a historical note. The amended and added provisions read as follows:

§ 1.6411 Statutory provisions; tentative carryback adjustments.

SEC. 6411. *Tentative carryback adjustments*—(a) *Application for adjustment.* A taxpayer may file an application for a tentative carryback adjustment of the tax for the prior taxable year affected by a net operating loss carryback provided in section 172(b), by an investment credit carryback provided in section 46(b), or by a capital loss carryback provided in section 1212(a)(1), from any taxable year. The application shall be verified in the manner prescribed by section 6065 in the case of a return of such taxpayer, and shall be filed, on or after the date of filing of the return for the taxable year of the net operating loss, net capital loss, or unused investment credit from which the carryback results and within a period of 12 months from the end of such taxable year (or, with respect to any portion of an investment credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, within a period of 12 months from the end of such subsequent taxable year), in the manner and form required by regulations prescribed by the Secretary or his delegate. The application shall set forth in such detail and with such supporting data and explanation as such regulations shall require—

(1) The amount of the net operating loss, net capital loss, or unused investment credit;

* * * * *

(5) The amount, with respect to the tax for the taxable year immediately preceding the taxable year from which the carryback is made, as to which an extension of time for payment under section 6164 is in effect; and

* * * * *

(b) *Allowance of adjustments.* Within a period of 90 days from the date on which an application for a tentative carryback adjustment is filed under subsection (a), or from the last day of the month in which falls the last date prescribed by law (including any extension of time granted the taxpayer) for filing the return for the taxable year of the net operating loss, net capital loss, or unused investment credit from which such carryback results, whichever is the later, the Secretary or his delegate shall make, to the extent he deems practicable in such period, a limited examination of the application, to discover omissions and errors of computation therein, and shall determine the amount of the decrease in the tax attributable to such carryback upon the basis of the application and the examination, except that the Secretary or his delegate may disallow, without further action, any application which he finds contains errors of computation which he deems cannot be corrected by him within such 90-day period or material omissions. Such decrease shall be applied against any unpaid amount of the tax decreased (including any amount of such tax as to which an extension of time under section 6164 is in effect) and any remainder shall be credited against any unsatisfied amount of any tax for the taxable year immediately preceding the taxable year of the net operating loss, net capital loss, or unused investment credit the time for payment of which tax is extended under section 6164. Any remainder shall, within such 90-day period, be either credited against any tax or installment thereof then due from the taxpayer, or refunded to the taxpayer.

(c) *Consolidated returns.* If the corporation seeking a tentative carryback adjustment under this section, made or was required to make a consolidated return, either for the taxable year within which the net operating loss, net capital loss, or unused investment credit arises, or for the preceding taxable year affected by such loss or credit, the provisions of this section shall apply only to such extent and subject to such conditions, limitations, and exceptions as the Secretary or his delegate may by regulations prescribe.

[Sec. 6411 as amended by sec. 2 (a), (b), (c), (d), and (e), Act of Nov. 2, 1966 (Public Law 89-721, 80 Stat. 1150); sec. 2(b), Act of Dec. 27, 1967 (Public Law 90-225, 81 Stat. 731); sec. 512(d), Tax Reform Act 1969 (83 Stat. 639)]

PAR. 21. Section 1.6411-1 is amended by revising paragraphs (a) and (c) to read as follows:

§ 1.6411-1 Tentative carryback adjustments.

(a) *In general.* Any taxpayer who has a net operating loss under section 172, a net capital loss under section 1211(a) which is a carryback under section 1212, or an unused investment credit under section 46, may file an application under section 6411 for a tentative carryback adjustment of the taxes for taxable years prior to the taxable year of the net operating or capital loss or the unused credit, whichever is applicable, which are affected by the net operating loss carryback, the capital loss carryback, or the unused investment credit carryback, resulting from such loss or unused credit. The regulations under section 6411 shall apply with respect to investment credit carrybacks for taxable years ending after December 31, 1961, but only with respect to applications for tentative carryback adjustments for investment credit carrybacks filed after November 2, 1966. The right to file an application for a tentative carryback adjustment is not limited to corporations, but is available to any taxpayer otherwise entitled to carry back a loss or unused credit. A corporation may file an application for a tentative carryback adjustment even though it has not extended the time for payment of tax under section 6164.

* * * * *

(c) *Time and place for filing application.* Except as otherwise provided in this paragraph the application for a tentative carryback adjustment shall be filed on or after the date of the filing of the return for the taxable year of the net operating loss, net capital loss, or unused investment credit and shall be filed within a period of twelve months from the end of such taxable year. With respect to any portion of an investment credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, the twelve-month period shall be measured from the end of such subsequent taxable year. In the case of an application for a tentative carryback adjustment attributable to the carryback of an unused investment credit, the twelve-month period for filing shall not expire before the close of December 31, 1966. Any application filed prior to the date on which the return for the taxable year of the loss or unused credit is filed shall be considered to have been filed on the date such return is filed. In the case of an application filed before April 15, 1968, the application shall be filed with the internal revenue officer to whom the tax was paid or by whom the assessment was made. Except as provided in paragraph (b) of § 301.6091-1 (relating to hand-carried documents), in the case of an application filed after April 14, 1968, if the tax was paid to the Director of International Operations, the application shall be filed with him; otherwise the application shall be filed with the internal revenue office with which the return was filed.

* * * * *

PAR. 22. Section 1.6411-2 is amended by revising paragraph (a) to read as follows:

§ 1.6411-2 Computation of tentative carryback adjustment.

(a) *Tax previously determined.* The taxpayer is to determine the amount of decrease, attributable to the carryback, in tax previously determined for each taxable year before the taxable year of the net operating loss, net capital loss, or unused investment credit. The tax previously determined is to be ascertained in accordance with the method prescribed in section 1314(a). Thus, the tax previously determined will be the tax shown on the return as filed, increased by any amounts assessed (or collected without assessment) as deficiencies before the date of the filing of the application for a tentative carryback adjustment, and decreased by any amounts abated, credited, refunded, or otherwise repaid prior to such date. Any items as to which the Internal Revenue Service and the taxpayer are in disagreement at the time of the filing of the application shall be taken into account in ascertaining the tax previously determined only if, and to the extent that, they were reported in the return, or were reflected in any amounts assessed (or collected without assessment) as deficiencies, or in any amounts abated, credited, refunded, or otherwise repaid, before the date of filing the application. The tax previously determined, therefore, will reflect the foreign tax credit and the credit for tax withheld at source provided in section 32.

* * * * *

PAR. 23. Section 1.6411-3 is amended by revising paragraphs (a)(2), (b), and (d)(2) to read as follows:

§ 1.6411-3 Allowance of adjustments.

(a) *Time prescribed.* * * *

(2) The last day of the month in which falls the last date prescribed by law (including any extension of time granted the taxpayer) for filing the return for the taxable year of the net operating loss, net capital loss, or unused investment credit from which the carryback results.

(b) *Examination.* Within the 90-day period described in paragraph (a) of this section, the district director or director of a service center shall make, to the extent he deems practicable in such period, an examination of the application to discover omissions and errors of computation. He shall determine within such period the decrease in tax previously determined, affected by the carryback or any related adjustments, upon the basis of the application and such examination. Such decrease shall be determined in the same manner as that provided in section 1314(a) for the determination by the taxpayer of the decrease in taxes previously determined which must be set forth in the application for a tentative carryback adjustment. Such internal revenue officer, however, may correct any errors of computation or omissions he may discover upon examination of the application. In determining the decrease in tax previously determined which is affected by the carryback or any related adjustment, he accordingly may correct any mathematical error appearing on the application and he may likewise correct any modification required by the law and incorrectly made by the taxpayer in computing the net operating loss, net capital loss, or unused investment credit, the resulting carrybacks, or the net operating loss deduction, capital loss deduction, or investment credit allowable. If the required modification has not been made by the taxpayer and such internal revenue officer has available the necessary information to make such modification within the 90-day period, he may, in his discretion, make such modification. In determining such decrease, however, such internal revenue officer will not, for example, change the amount claimed on the return as a deduction for depreciation because he believes that the taxpayer has claimed an excessive amount; likewise, he will not include in gross income any amount not so included by the taxpayer, even though such officer believes that such amount is subject to tax and properly should be included in gross income.

* * * * *

(d) *Application of decrease.* * * *

(2) In case the unpaid amount of tax includes more than one of such amounts, the district director, or director of a service center in his discretion, shall determine against which amount or amounts, and in what proportion, the decrease is to be applied. In general, however, the decrease will be applied against any amounts described in subparagraph (1) (i), (ii), and (iii) of this paragraph in the order named. If there are several amounts of the type described in subparagraph (1)(iii) of this paragraph, any amount of the decrease which is to be applied against such amount will be applied by assuming that the tax previously determined minus the amount of the decrease to be so applied is "the tax" and that the taxpayer had elected to pay such tax in installments. The unpaid amount of tax against which a decrease may be applied under subparagraph (1) of this paragraph may not include any amount of tax for any taxable year other than the year of the decrease. After making such application, such internal revenue officer will credit any remainder of the decrease against any unsatisfied amount of any tax for the taxable year immediately preceding the taxable year of the net operating loss, capital loss, or unused investment credit, the time for payment of which has been extended under section 6164.

PAR. 24. Section 1.6411-4 is amended to provide a proper cross-reference as follows:

§ 1.6411-4 Consolidated returns.

For further rules applicable to affiliated groups in the case of tentative carryback adjustments, see § 1.1502-78.

PAR. 25. Section 301.6411 is amended by revising so much of subsection (a) as precedes paragraph (1) of such subsection, subsections (a) (1) and (5), (b), and (c), of section 6411, and by adding a historical note. The amended and added provisions read as follows:

§ 301.6411 Statutory provisions; tentative carryback adjustments.

SEC. 6411. *Tentative carryback adjustments*—(a) *Application for adjustment.* A taxpayer may file an application for a tentative carryback adjustment of the tax for the prior taxable year affected by a net operating loss carryback provided in section 172 (b), by an investment credit carryback provided in section 46(b), or by a capital loss carryback provided in section 1212(a)(1), from any taxable year. The application shall be verified in the manner prescribed by section 6065 in the case of a return of such taxpayer, and shall be filed, on or after the date of filing of the return for the taxable year of the net operating loss, net capital loss, or unused investment credit from which the carryback results and within a period of 12 months from the end of such taxable year (or, with respect to any portion of an investment credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, within a period of 12 months from the end of such subsequent taxable year), in the manner and form required by regulations prescribed by the Secretary or his delegate. The application shall set forth in such detail and with such supporting data and explanation as such regulations shall require—

(1) The amount of the net operating loss, net capital loss, or unused investment credit;

* * * * *

(5) The amount, with respect to the tax for the taxable year immediately preceding the taxable year from which the carryback is made, as to which an extension of time for payment under section 6164 is in effect; and

* * * * *

(b) *Allowance of adjustments.* Within a period of 90 days from the date on which an application for a tentative carryback adjustment is filed under subsection (a), or from the last day of the month in which falls the last date prescribed by law (including any extension of time granted the taxpayer) for filing the return for the taxable year of the net operating loss, net capital loss, or unused investment credit from which such carryback results, whichever is the later, the Secretary or his delegate shall make, to the extent he deems practicable in such period, a limited examination of the application, to discover omissions and errors of computation therein, and shall determine the amount of the decrease in the tax attributable to such carryback upon the basis of the application and the examination, except that the Secretary or his delegate may disallow, without further action, any application which he finds contains errors of computation which he deems cannot be corrected by him within such 90-day period or material omissions. Such decrease shall be applied against any unpaid amount of the tax decreased (including any amount of such tax as to which an extension of time under section 6164 is in effect) and any remainder shall be credited against any unsatisfied amount of any tax for the taxable year immediately preceding the taxable year of the net operating loss, net capital loss, or unused investment credit the time for payment of which tax is extended under section 6164. Any remainder shall, within such 90-day period, be either credited against any tax or installment thereof then due from the taxpayer, or refunded to the taxpayer.

(c) *Consolidated returns.* If the corporation seeking a tentative carryback adjustment under this section, made or was required to make a consolidated return, either for the taxable year within which the net operating loss, net capital loss, or unused investment credit arises, or for the preceding taxable year affected by such loss or credit, the provisions of this section shall apply only to such extent and subject to such conditions, limitations, and exceptions as the Secretary or his delegate may by regulations prescribe.

[Sec. 6411 as amended by sec. 2 (a), (b), (c), (d), and (e), Act of Nov. 2, 1966 (Public Law 89-721, 80 Stat. 1150); sec. 2(b), Act of Dec. 27, 1967 (Public Law 90-225, 81 Stat. 731); sec. 512(d), Tax Reform Act 1969 (83 Stat. 639)]

PAR. 26. Section 301.6501(h) is amended by revising the heading of such section, the heading and subsection (h) of section 6501, and the historical note to read as follows:

§ 301.6501(h) Statutory provisions; limitations on assessment and collection; net operating loss or capital loss carrybacks.

SEC. 6501. *Limitations on assessment and collection.* * * *

(h) *Net operating loss or capital loss carrybacks.* In the case of a deficiency attributable to the application to the taxpayer of a net operating loss carryback or a capital loss carryback (including deficiencies which may be assessed pursuant to the provisions of section 6213(b)(2)), such deficiency may be assessed at any time before the expiration of the period within which a deficiency for the taxable year of the net operating loss or net capital loss which results in such carryback may be assessed. In the case of a deficiency attributable to the application of a net operating loss carryback, such deficiency may be assessed within 18 months after the date on which the taxpayer files in accordance with section 172(b)(3) a copy of the certification (with respect to the taxable year of the net operating loss) issued under section 317 of the Trade Expansion Act of 1962, if later than the date prescribed by the preceding sentence.

[Sec. 6501(h) as added by sec. 81(b), Technical Amendments Act 1958 (72 Stat. 1663); and as amended by sec. 317(c), Trade Expansion Act 1962 (76 Stat. 890); sec. 512(e) (1) (A), (B), (C), and (D), Tax Reform Act 1969 (83 Stat. 640)]

PAR. 27. Section 301.6501(h)-1 is amended by revising such section and its heading to read as follows:

§ 301.6501(h)-1 Net operating loss or capital loss carrybacks.

In the case of a deficiency attributable to the application to the taxpayer of a net operating loss or capital loss carryback (including deficiencies which may be assessed pursuant to the provisions of section 6213(b)(2)), such deficiency may be assessed at any time before the expiration of the period within which a deficiency for the taxable year of the net operating loss or net capital loss which results in such carryback may be assessed. In the case of a deficiency attributable to the application of a net operating loss carryback, such deficiency may be assessed within 18 months after the date on which the taxpayer files in accordance with section 172(b)(3) a copy of the certification (with respect to such taxable year) issued under section 317 of the Trade Expansion Act of 1962, if later than the date prescribed by the preceding sentence.

PAR. 28. Section 301.6501(j) is amended by revising section 6501(j) and the historical note to read as follows:

§ 301.6501(j) Statutory provisions; limitations on assessment and collection; investment credit carrybacks.

SEC. 6501. *Limitations on assessment and collection.* * * *

(j) *Investment credit carrybacks.* In the case of a deficiency attributable to the application to the taxpayer of an investment credit carryback (including deficiencies which may be assessed pursuant to the provisions of section 6213(b)(2)), such deficiency may be assessed at any time before the expiration of the period within which a deficiency for the taxable year of the unused investment credit which results in such carryback may be assessed, or, with respect to any portion of an investment credit carryback from a taxable year attributable to a net operating loss carryback or capital loss carryback from a subsequent taxable year, at any time before the expiration of the period within which a deficiency for such subsequent taxable year may be assessed.

[Sec. 6501(j) as added by sec. 2(e)(1), Rev. Act 1962 (76 Stat. 971); and as amended by sec. 2(f), Act of Nov. 2, 1966 (Public Law 89-721, 80 Stat. 1150); sec. 2(c), Act of Dec. 27, 1967 (Public Law 90-225, 81 Stat. 731); sec. 512(e)(1) (E), Tax Reform Act 1969 (83 Stat. 640)]

PAR. 29. Section 301.6501(j)-1 is amended to read as follows:

§ 301.6501(j)-1 Investment credit carryback; taxable years ending after December 31, 1961.

With respect to taxable years ending after December 31, 1961, a deficiency attributable to the application to the taxpayer of an investment credit carryback may be assessed at any time before the expiration of the period within which a deficiency for the taxable year of the unused investment credit which results in such carryback may be assessed, or, with respect to any portion of an investment credit carryback from a taxable year attributable to a net operating loss or capital loss carryback from a subsequent taxable year, at any time before the expiration of the period within which a deficiency for such subsequent taxable year may be assessed. For purposes of this section a deficiency shall include a deficiency which may be assessed pursuant to the provisions of section 6213(b)(2), but only those arising with respect to applications for tentative carryback adjustments filed after November 2, 1966.

PAR. 30. Section 301.6501(k) is redesignated as section 301.6501(l) and the historical note is revised. Such redesignated section and revised historical note read as follows:

§ 301.6501(l) Statutory provisions; limitations on assessment and collection; joint income return after separate return.

SEC. 6501. *Limitations on assessment and collection.* * * *

(l) *Joint income return after separate return*. For period of limitations for assessment and collection in the case of a joint income return filed after separate returns have been filed, see section 6013(b)(3) and (4).

(Sec. 6501(h) as redesignated by sec. 81(b), Technical Amendments Act 1958 (72 Stat. 1663); sec. 3(c), Act of Sept. 14, 1960 (Public Law 86-780, 74 Stat. 1013); sec. 2(e)(1), Rev. Act 1962 (76 Stat. 971); sec. 6501(k) as redesignated by sec. 3(b), Act of Sept. 2, 1964 (Public Law 88-571, 78 Stat. 857))

PAR. 31. There is inserted immediately after section 301.6501(j)-1 the following new section:

§ 301.6501(k) Statutory provisions; limitations on assessment and collection; reductions of policyholders surplus account of life insurance companies.

SEC. 6501. *Limitations on assessment and collection*. * * *

(k) *Reductions of policyholders surplus account of life insurance companies*. In the case of a deficiency attributable to the application to the taxpayer of section 815(d)(5) (relating to reductions of policyholders surplus account of life insurance companies for certain unused deductions), such deficiency may be assessed at any time before the expiration of the period within which a deficiency for the last taxable year to which the loss described in section 815(d)(5)(A) is carried under section 812(b)(2) may be assessed.

(Sec. 6501(k) as added by sec. 3(b), Act of Sept. 2, 1964 (Public Law 88-571, 78 Stat. 858))

PAR. 32. These is inserted immediately after redesignated section 301.6501(l) the following new sections:

§ 301.6501(m) Statutory provisions; limitations on assessment and collection; tentative carryback adjustment assessment period.

SEC. 6501. *Limitation on assessment and collection*. * * *

(m) *Tentative carryback adjustment assessment period*. In a case where an amount has been applied, credited, or refunded under section 6411 (relating to tentative carryback adjustments) by reason of a net operating loss carryback, a capital loss carryback, or an investment credit carryback to a prior taxable year, the period described in subsection (a) of this section for assessing a deficiency for such prior taxable year shall be extended to include the period described in subsection (h) or (j), whichever is applicable; except that the amount which may be assessed solely by reason of this subsection shall not exceed the amount so applied, credited, or refunded under section 6411, reduced by any amount which may be assessed solely by reason of subsection (h) or (j), as the case may be.

[Sec. 6501(m) as added by sec. 3(a), Act of Nov. 2, 1966 (Public Law 89-721, 80 Stat. 1151); and as amended by sec. 512(e)(1)(F), Tax Reform Act 1969 (83 Stat. 640)]

§ 301.6501(m)-1 Tentative carryback adjustment assessment period.

(a) *Period of limitation after tentative carryback adjustment*. (1) Under section 6501(m), in a case where an amount has been applied, credited, or refunded under section 6411, by reason of a net operating loss carryback, a capital loss carryback, or an investment credit carryback to a prior taxable year, the period described in section 6501(a) of the Code for assessing a deficiency for such prior taxable year is extended to include the period described in section 6501 (h) or (j), whichever is applicable; except that the amount which may be assessed solely by reason of section 6501(m) may not exceed the amount so applied, credited, or refunded under section 6411, reduced by any amount which may be assessed solely by reason of section 6501 (h) or (j), as the case may be.

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

Example. Assume that M Corporation, which claims an unused investment credit of $50,000 for the calendar year 1968, files an application under section 6411 of the Code for an adjustment of its tax for 1965, and receives a refund of $50,000 in 1969. In 1971, it is determined that the amount of the unused investment credit for 1968 is $30,000 rather than $50,000. Moreover, it is determined that M Corporation would have owed $40,000 of additional tax for 1965 if it had properly reported certain income which it failed to include in its 1965 return. Assuming that M Corporation filed its 1968 return on March 15, 1969, and that the 3-year period described in section 6501(a) has not been extended, the period prescribed in section 6501(j) for assessing the excessive amount refunded, $20,000 (*i.e.*, $50,000, original amount refunded, less $30,000, correct amount of unused investment credit), does not expire until March 15, 1972, and $20,000 may be assessed on or before such date under section 6501(j). Under section 6501(m), M Corporation may be assessed on or before March 15, 1972, an amount not in excess of $30,000 ($50,000, the amount refunded under section 6411, minus $20,000, the amount which may be assessed solely by reason of section 6501(j)).

(b) *Effective date*. The provisions of paragraph (a) of this section apply only with respect to applications under section 6411 filed after November 2, 1966.

PAR. 33. Section 6511(d) of section 301.6511(d) is amended by revising the heading of paragraph (2), by revising so much of subparagraph (A) as precedes paragraph (B) of paragraph (2), by revising paragraph (4)(A) of section 6511 (d), by adding paragraphs (5) and (6), and by revising the historical note. The amended and added provisions read as follows:

§ 301.6511(d) Statutory provisions; limitations on credit or refund; special rules applicable to income taxes.

SEC. 6511. *Limitations on credit or refund*. * * *

(d) *Special rules applicable to income taxes*. * * *

(2) *Special period of limitation with respect to net operating loss or capital loss carrybacks*—

(A) *Period of limitation*. If the claim for credit or refund relates to an overpayment attributable to a net operating loss carryback or a captial loss carryback, in lieu of the 3-year period of limitation prescribed in subsection (a), the period shall be that period which ends with the expiration of the 15th day of the 40th month (or the 39th month, in the case of a corporation) following the end of the taxable year of the net operating loss or net capital loss which results in such carryback, or the period prescribed in subsection (c) in respect of such taxable year, whichever expires later; except that—

* * * * *

(B) *Applicable rules*. (i) If the allowance of a credit or refund of an overpayment of tax attributable to a net operating loss carryback or a capital loss carryback is otherwise prevented by the operation of any law or rule of law other than section 7122, relating to compromises, such credit or refund may be allowed or made, if claim therefor is filed within the period provided in subparagraph (A) of this paragraph. If the allowance of an application, credit, or refund of a decrease in tax determined under section 6411(b) is otherwise prevented by the operation of any law or rule of law other than section 7122, such application, credit, or refund may be allowed or made if application for a tentative carryback adjustment is made within the period provided in section 6411(a). In the case of any such claim for credit or refund or any such application for a tentative carryback adjustment, the determination by any court, including the tax court, in any proceeding in which the decision of the court has become final, shall be conclusive except with respect to the net operating loss deduction, and the effect of such deduction, or with respect to the determination of a short-term capital loss, and the effect of such short-term capital loss, to the extent that such deduction or short-term capital loss is affected by a carryback which was not an issue in such proceeding.

(ii) A claim for credit or refund for a computation year (as defined in section 1302 (c)(1)) shall be determined to relate to an overpayment attributable to a net operating loss carryback or a capital loss carryback, as the case may be, when such carryback relates to any base period year (as defined in section 1302(c)(3)).

* * * * *

(4) *Special period of limitation with respect to investment credit carrybacks*—(A) *Period of limitation*. If the claim for credit or refund relates to an overpayment attributable to an investment credit carryback, in lieu of the 3-year period of limitation prescribed in subsection (a), the period shall be that period which ends with the expiration of the 15th day of the 40th month (or 39th month, in the case of a corporation) following the end of the taxable year of the unused investment credit which results in such carryback (or, with respect to any portion of an investment credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, the period shall be that period which ends with the expiration of the 15th day of the 40th month, or 39th month, in the case of a corporation, following the end of such subsequent taxable year) or the period prescribed in subsection (c) in respect of such taxable year, whichever expires later. In the case of such a claim, the amount of the credit or refund may exceed the portion of the tax paid within the period provided in subsection (b)(2) or (c), whichever is applicable, to the extent of the amount of the overpayment attributable to such carryback.

* * * * *

(5) *Special period of limitation with respect to self-employment tax in certain cases*. If the claim for credit or refund relates to an overpayment of the tax imposed by chapter 2 (relating to the tax on self-employment income) attributable to an agreement, or modification of an agreement, made pursuant to section 218 of the Social Security Act (relating to coverage of State and local employees), and if the allowance of a credit or refund of such overpayment is otherwise prevented by the operation of any law or rule of law other than section 7122 (relating to compromises), such credit or refund may be allowed or made if claim therefor is filed on or before the later of the following dates:

(A) the last day of the second year after the calendar year in which such agreement (or modification) is agreed to by the State and the Secretary of Health, Education, and Welfare, or (B) December 31, 1965.

(6) *Special period of limitation with respect to reduction of policyholders surplus account of life insurance companies*—(A) *Period of limitation.* If the claim for credit or refund relates to an overpayment arising by operation of section 815(d)(5) (relating to reduction of policyholders surplus account of life insurance companies for certain unused deductions), in lieu of the 3-year period of limitation prescribed in subsection (a), the period shall be that period which ends with the expiration of the 15th day of the 39th month following the end of the last taxable year to which the loss described in section 815(d)(5)(A) is carried under section 812(b)(2), or the period prescribed in subsection (c), in respect of such taxable year, whichever expires later. In the case of such a claim, the amount of the credit or refund may exceed the portion of the tax paid within the period provided in subsection (b)(2) or (c), whichever is applicable, to the extent of the amount of overpayment arising by operation of section 815(d)(5).

(B) *Applicable rules.* If the allowance of a credit or refund of an overpayment arising by operation of section 815(d)(5) is otherwise prevented by operation of any law or rule of law, other than section 7122 (relating to compromises), such credit or refund may be allowed or made, if claim therefor is filed within the period provided in subparagraph (A) of this paragraph. In the case of any such claim for credit or refund, the determination by any court, including the tax court, in any proceeding in which the decision of the court has become final, shall be conclusive except with respect to the effect of the operation of section 815(d)(5), to the extent such effect of the operation of section 815(d)(5) was not in issue in such proceeding.

* * * * *

[Sec. 6511(d) as amended by sec. 82(d), Technical Amendments Act 1958 (72 Stat. 1663); sec. 1(a), Act of Sept. 16, 1959 (Public Law 86-280, 73 Stat. 563); sec. 317(d), Trade Expansion Act of 1962 (76 Stat. 891); sec. 2(e)(2), Rev. Act 1962 (76 Stat. 971); sec. 232(d) and sec. 239, Rev. Act 1964 (78 Stat. 111, 128); sec. 3(c), Act of Sept. 2, 1964 (Public Law 88-571, 78 Stat. 858); sec. 2(d), Act of December 27, 1967 (Public Law 90-225, 81 Stat. 731); sec. 512(e)(2), Tax Reform Act 1969 (83 Stat. 640)]

PAR. 34. Section 301.6511(d)-2 and its heading are amended to read as follows:

§ 301.6511(d)-2 Overpayment of income tax on account of net operating loss or capital loss carrybacks.

(a) *Special period of limitation.* (1) If the claim for credit or refund relates to an overpayment of income tax attributable to a net operating loss carryback (provided in section 172(b)), or a capital loss carryback (provided in section 1212(a)), then in lieu of the 3-year period from the time the return was filed in which the claim may be filed or credit or refund allowed, as prescribed in section 6511 (a) or (b), the period shall be whichever of the following two periods expires later:

(i) The period which ends with the expiration of the 15th day of the 40th month (or 39th month, in the case of a corporation) following the end of the taxable year of the net operating loss or net capital loss which resulted in the carryback; or

(ii) The period which ends with the expiration of the period prescribed in section 6511(c) within which a claim for credit or refund may be filed with respect to the taxable year of the net operating loss or net capital loss which resulted in the carryback except that—

(*a*) With respect to an overpayment attributable to a net operating loss carryback to any year on account of a certification issued to the taxpayer under section 317 of the Trade Expansion Act of 1962, the period shall not expire before the expiration of the sixth month following the month in which such certification is issued to the taxpayer, and

(*b*) With respect to an overpayment attributable to the creation of, or an increase in, a net operating loss as a result of the elimination of excessive profits by a renegotiation (as defined in section 1481(a)(1)(A)), the period shall not expire before September 1, 1959, or the expiration of the 12th month following the month in which the agreement or order for the elimination of excessive profits becomes final, whichever is the later.

(2) In the case of a claim for credit or refund involving a net operating loss or capital loss carryback described in subparagraph (1) of this paragraph, the amount of the credit or refund may exceed the portion of the tax paid within the period provided in section 6511 (b)(2) or (c), whichever is applicable, to the extent of the amount of the overpayment attributable to the carryback. If the claim involves an overpayment based not only on a net operating loss or capital loss carryback described in subparagraph (1) of this paragraph but based also on other items, the credit or refund cannot exceed the sum of the following:

(i) The amount of the overpayment which is attributable to the net operating loss or capital loss carryback, and

(ii) The balance of such overpayment up to a limit of the portion, if any, of the tax paid within the period provided in section 6511 (b)(2) or (c), or within the period provided in any other applicable provision of law.

(3) If the claim involves an overpayment based not only on a net operating loss or capital loss carryback described in subparagraph (1) of this paragraph but based also on other items, and if the claim with respect to any items is barred by the expiration of any applicable period of limitation, the portion of the overpayment attributable to the items not so barred shall be determined by treating the allowance of such items as the first adjustment to be made in computing such overpayment. If a claim for credit or refund is not filed, and if credit or refund is not allowed, within the period prescribed in this paragraph, then credit or refund may be allowed or made only if claim therefor is filed, or if such credit or refund is allowed, within the period prescribed in section 6511 (a), (b), or (c), whichever is applicable, subject to the provisions thereof limiting the amount of credit or refund in the case of a claim filed, or if no claim was filed, in case of credit or refund allowed, within such applicable period. For the limitations on the allowance of interest for an overpayment where credit or refund is subject to the provisions of this section, see section 6611(f).

(b) *Barred overpayments.* If the allowance of a credit or refund of an overpayment of tax attributable to a net operating loss carryback or capital loss carryback is otherwise prevented by the operation of any law or rule of law (other than section 7122, relating to compromises), such credit or refund may be allowed or made under the provisions of section 6511(d)(2)(B) if a claim therefor is filed within the period provided by section 6511(d)(2)(A) and paragraph (a) of this section for filing a claim for credit or refund of an overpayment attributable to a carryback. Similarly, if the allowance of an application, credit, or refund of a decrease in the tax determined under section 6411(b) is otherwise prevented by the operation of any law or rule of law (other than section 7122), such application, credit, or refund may be allowed or made if an application for a tentative carryback adjustment is filed within the period provided in section 6411(a). Thus, for example, even though the tax liability (not including the net operating loss deduction or capital loss carryback (or the effect of such deduction or carryback)) for a given taxable year has previously been litigated before the Tax Court, credit or refund of an overpayment may be allowed or made despite the provisions of section 6512(a), if claim for such credit or refund is filed within the period provided in section 6511(d)(2)(A) and paragraph (a) of this section. In the case of a claim for credit or refund of an overpayment attributable to a carryback, or in the case of an application for a tentative carryback adjustment, the determination of any court, including the Tax Court, in any proceeding in which the decision of the court has become final, shall be conclusive except with respect to the net operating loss deduction, and the effect of such deduction, or with respect to the determination of a short-term capital loss, and the effect of such short-term capital loss, to the extent that such deduction or short-term capital loss is affected by a carryback which was not in issue in such proceeding.

PAR. 35. Section 301.6511(d)-4 is amended by revising subdivision (i) of paragraph (a)(1) to read as follows:

§ 301.6511(d)-4 Overpayment of income tax on account of investment credit carryback.

(a) *Special period of limitation.* (1) * * *

(i) The period which ends with the expiration of the 15th day of the 40th month (or 39th month, in the case of a corporation) following the end of the taxable year of the unused investment credit which resulted in the carryback (or, with respect to any portion of an investment credit carryback from a taxable year attributable to a net operating

loss carryback or a capital loss carryback from a subsequent taxable year, the period which ends with the expiration of the 15th day of the 40th month (or 39th month, in the case of a corporation) following the end of such subsequent taxable year) ; or

* * * * *

PAR. 36. Section 301.6601 is amended by revising subsection (e) of section 6601 and the historical note to read as follows:

§ 301.6601 Statutory provisions; interest or underpayment, nonpayment, or extensions of time for payment, of tax.

SEC. 6601. *Interest on underpayment, nonpayment, or extensions of time for payment, of tax.*

* * * * *

(e) *Income tax reduced by carryback or adjustment for certain unused deductions*—(1) *Net operating loss or capital loss carryback.* If the amount of any tax imposed by subtitle A is reduced by reason of a carryback of a net operating loss or net capital loss, such reduction in tax shall not effect the computation of interest under this section for the period ending with the last day of the taxable year in which the net operating loss or net capital loss arises.

(2) *Investment credit carryback.* If the credit allowed by section 38 for any taxable year is increased by reason of an investment credit carryback, such increase shall not affect the computation of interest under this section for the period ending with the last day of the taxable year in which the investment credit carryback arises, or, with respect to any portion of an investment credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, such increase shall not affect the computation of interest under this section for the period ending with the last day of such subsequent taxable year.

(3) *Adjustment for certain unused deductions of life insurance companies.* If the amount of any tax imposed by subtitle A is reduced by operation of section 815(d) (5) (relating to reduction of policyholders surplus account of life insurance companies for certain unused deductions), such reduction in tax shall not affect the computation of interest under this section for the period ending with the last day of the last taxable year to which the loss described in section 815(d) (5) (A) is carried under section 812 (b) (2).

* * * * *

[Sec. 6601 as amended by secs. 66(c), 83(a) (1), 84(a), Technical Amendments Act 1958 (72 Stat. 1658, 1663, 1664); sec. 206(e), Small Business Tax Revision Act 1958 (72 Stat. 1685); sec. 203(c) (2), Federal-Aid Highway Act 1961 (75 Stat. 126); sec. 2(e) (3), Rev. Act 1962 (76 Stat. 972); sec. 3(d), Act of Sept. 2, 1964 (Public Law 88-571, 78 Stat. 857); sec. 512(e) (3), Tax Reform Act 1969 (83 Stat. 641)]

PAR. 37. Section 301.6601–1 is amended by revising paragraph (e) to read as follows:

§ 301.6601–1 Interest on underpayments.

* * * * *

(e) *Income tax reduced by carryback.* (1) The carryback of a net operating loss, net capital loss, or investment credit shall not affect the computation of interest on any income tax for the period commencing with the last day prescribed for the payment of such tax and ending with the last day of the taxable year in which the loss or credit arises. For example, if the carryback of a net operating loss, a net capital loss, or an investment credit to a prior taxable period eliminates or reduces a deficiency in income tax for that period, the full amount of the deficiency will nevertheless bear interest at the rate of 6 percent per annum from the last date prescribed for payment of such tax until the last day of the taxable year in which the loss or credit arose. Interest will continue to run beyond such last day on any portion of the deficiency which is not eliminated by the carryback. With respect to any portion of an investment credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, such investment credit carryback shall not affect the computation of interest on any income tax for the period commencing with the last day prescribed for the payment of such tax and ending with the last day of such subsequent taxable year.

(2) Where an extension of time for payment of income tax has been granted under section 6164 to a corporation expecting a net operating loss carryback or a net capital loss carryback, interest is payable at the rate of 6 percent per annum on the amount of such unpaid tax from the last date prescribed for payment thereof without regard to such extension.

(3) Where there has been an allowance of an overpayment attributable to a net operating loss carryback, a capital loss carryback, or an investment credit carryback and all or part of such allowance is later determined to be excessive, interest shall be computed on the excessive amount from the last day of the year in which the net operating loss, net capital loss, or investment credit arose until the date on which the repayment of such excessive amount is received. Where there has been an allowance of an overpayment with respect to any portion of an investment credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year and all or part of such allowance is later determined to be excessive, interest shall be computed on the excessive amount from the last day of such subsequent taxable year until the date on which the repayment of such excessive amount is received.

* * * * *

PAR. 38. Section 301.6611 is amended by revising subsections (e) and (f) of section 6611 and the historical note to read as follows:

§ 301.6611 Statutory provisions, interest on overpayments.

SEC. 6611. *Interest on overpayments.* * * *

(e) *Income tax refund within 45 days after return is filed.* If any overpayment of tax imposed by subtitle A is refunded within 45 days after the last date prescribed for filing the return of such tax (determined without regard to any extension of time for filing the return) or, in case the return is filed after such last date, is refunded within 45 days after the date the return is filed, no interest shall be allowed under subsection (a) on such overpayment.

(f) *Refund of income tax caused by carryback or adjustments for certain unused deductions*—(1) *Net operating loss or capital loss carryback.* For purposes of subsection (a), if any overpayment of tax imposed by subtitle A results from a carryback of a net operating loss or net capital loss, such overpayment shall be deemed not to have been made prior to the close of the taxable year in which such net operating loss or net capital loss arises.

(2) *Investment credit carryback.* For purposes of subsection (a), if any overpayment of tax imposed by subtitle A results from an investment credit carryback, such overpayment shall be deemed not to have been made prior to the close of the taxable year in which such investment credit carryback arises, or, with respect to any portion of an investment credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, such overpayment shall be deemed not to have been made prior to the close of such subsequent taxable year.

(3) *Adjustment for certain unused deductions of life insurance companies.* For purposes of subsection (a), if any overpayment of tax imposed by subtitle A arises by operation of section 815(d) (5) (relating to reduction of policyholders surplus account of life insurance companies for certain unused deductions), such overpayment shall be deemed not to have been made prior to the close of the last taxable year to which the loss described in section 815(d) (5) (A) is carried under section 812(b) (2).

* * * * *

[Sec. 6611 as amended by secs. 42(b) and 83 (b) and (c), Technical Amendments Act 1958 (72 Stat. 1640, 1664); sec. 2(e) (4), Rev. Act 1962 (76 Stat. 972); sec. 3(e), Act of Sept. 2, 1964 (Public Law 88-571, 78 Stat. 858); sec. 1(a), Act of Nov. 2, 1966 (Public Law 89-721, 80 Stat. 1150); sec. 2(f), Act of Dec. 27, 1967 (Public Law 90-225, 81 Stat. 732); sec. 512(e) (4), Tax Reform Act 1969 (83 Stat. 641)]

PAR. 39. Section 301.6611–1 is amended by revising paragraphs (e) and (j) to read as follows:

§ 301.6611–1 Interest on overpayments.

* * * * *

(e) *Refund of income tax caused by carryback.* If any overpayment of tax imposed by subtitle A of the Code results from the carryback of a net operating loss, a net capital loss, or an investment credit, such overpayment, for purposes of this section, shall be deemed not to have been made prior to the end of the taxable year in which the loss or credit arises, or, with respect to any portion of an investment credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, such overpayment shall be deemed not to have been made prior to the close of such subsequent taxable year.

* * * * *

(j) *Refund within 45 days.* No interest shall be allowed on any overpayment of tax imposed by subtitle A of the Code if such overpayment is refunded—

(1) In the case of a return filed on or before the last date prescribed for filing

the return of such tax (determined without regard to any extension of time for filing such return), within 45 days after such last date, or

(2) After December 17, 1966, in the case of a return filed after the last day prescribed for filing the return, within 45 days after the date on which the return is filed.

For purposes of this paragraph an overpayment shall be considered refunded on the date of allowance as prescribed in section 6407.

[FR Doc.71-15378 Filed 10-22-71;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 7]

SELECTION AND FUNCTIONS OF COUNTY AND COMMUNITY COMMITTEES

Proposed Rule Changes in Connection With Method of Election, Tie Votes, Eligibility To Hold Office, Date Committeemen Take Office, and the Effective Period of the Oath of Office

The Secretary of Agriculture is preparing to change certain sections of the existing Regulations Governing ASC County and Community Committees as indicated below.

Before making any of the changes, consideration will be given to any data, views, and recommendations which are submitted in writing to the Deputy Administrator, State and County Operations, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250.

In order to be sure of consideration, all submissions must be postmarked not later than November 25, 1971. The proposed changes are as follows:

1. Paragraph (a) of § 7.11 will be amended to require mail-type elections in all counties unless waived, as follows:

§ 7.11 Election of community committee and delegates to the county convention.

(a) Except as provided in paragraph (c) of this section, the eligible voters in a community shall elect annually a community committee composed of three members and shall elect first and second alternates to serve as acting members of the community committee in the order elected in case of the temporary absence of a member, or to become a member of the community committee in the order elected in case of the resignation, disqualification, removal, or death of a member. An acting member of the community committee shall have the same duties and the same authority as a member. The election shall be conducted by the mail ballot method in all counties, except that the Deputy Administrator may authorize use of the meeting or polling place method in a specific county where such is deemed justified. Whether elections are by mail or by polling place, the county committee shall give advance public notice that nominations may be made by petition. Election shall be by secret ballot and by plurality vote, with each eligible voter having the option of writing in the names of candidates of his own choice. Except as provided in paragraph (c) of this section, the three regular members of the community committee shall be the delegates to the county convention and the first and second alternates to the community committee shall also be in that order alternate delegates to the county convention: *Provided, however*, That a person may not serve as delegate if he has been a member of the county committee for that county during the 90 days preceding the community election. Failure to elect the prescribed number of alternates at the regular election shall not invalidate such election or require a special election to elect additional alternates.

2. Section 7.13 will be amended to provide that tie votes shall be uniformly settled by lot as follows:

§ 7.13 Tie votes.

(a) Tie votes in community committee elections held by mail or polling place method shall be settled by lot. Tie votes in such elections held by the meeting method which cannot be settled by further balloting on the same day shall be settled by lot. In one-community counties, a tie vote in determining the chairman and vice chairman which cannot be settled by further balloting on the same day shall be settled by lot.

(b) In the county convention, tie votes which cannot be settled by further balloting on the same day shall be settled by lot.

3. Paragraph (h) of § 7.15 will be amended to provide that community committeemen as well as county committeemen are not eligible to hold office past age 70 unless waived as follows:

§ 7.15 County committeemen, community committeemen, and delegates.

* * * * *

(h) Not have passed his 70th birthday by the date his term of office, or new term of office, begins unless this provision is waived by the State committee.

* * * * *

4. Section 7.18 will be changed to provide (a) authority for elected committeemen to take office on the first day of January whether or not it is a workday; and (b) that the pledge required to be signed by county committeemen and their alternates continues in effect as long as the signer remains in any position on such committee without a break in service. The section will be amended to read as follows:

§ 7.18 County and community committeemen.

The terms of office of county and community commiteemen and alternates to such office shall begin on a date fixed by the Deputy Administrator which shall be after their election and not later than the first day in the next January. A term of office shall continue until a successor is elected and qualified as provided in §§ 7.11 and 7.12: *Provided, however*, That before any such county committeeman or alternate county committeeman may take office he shall sign a pledge that he will faithfully, fairly, and honestly perform to the best of his ability all of the duties devolving on him as a committeeman as long as he is member or alternate on such committee without a break in continuity of such service. For this purpose reelection to successive terms is not considered a break in service.

All written submissions made pursuant to this notice will be made available for public inspection in Room 243-W, Administration Building, U.S. Department of Agriculture, 14th Street and Independence Avenue SW., Washington, DC, between 8:15 a.m. and 4:45 p.m., Monday through Friday (7 CFR 1.27(b)).

(16 U.S.C. 590d, 590h(b))

Signed at Washington, D.C., on October 19, 1971.

CLIFFORD M. HARDIN,
Secretary of Agriculture.

[FR Doc.71-15482 Filed 10-22-71;8:49 am]

Chapter XVIII—Farmers Home Administration, Department of Agriculture

[7 CFR Part 1806]

[FHA Instruction 426.1]

REAL PROPERTY INSURANCE

Coverage Requirements

Notice is hereby given that the Farmers Home Administration has under consideration a proposed amendment of Part 1806, Title 7, Code of Federal Regulations (35 F.R. 17238) as follows:

1. In § 1806.3(c)(1), subdvisions (iv) and (v) are redesignated as subdivisions (v) and (vi), respectively; and a new subdivision (iv) is added. As amended and redesignated, the subdivisions (iv), (v), and (vi) read as follows:

§ 1806.3 Coverage requirements.

* * * * *

(c) * * *

(1) * * *

(iv) Which is being or has been repaired with a section 504 loan. Families receiving section 504 loans should be encouraged but not required to carry insurance on their home.

(v) On LH security property which was not built or repaired with FHA loan funds provided that the State Director determines that the land and other structures adequately secure the FHA loan and any prior liens.

(vi) On which the hazards are so slight because of the character and construction of the building or the cost of the insurance is so high in comparison with the value of the building that, according to common standards of judgment, it should not be insured, including but not limited to windmills, silos, and fire-cured tobacco barns.

* * * * *

(Sec. 510, 63 Stat. 437, 42 U.S.C. 1480; Orders of the Sec. of Agri., 29 F.R. 16210, 32 F.R. 6650)

All persons desiring to submit written views or arguments for consideration in connection with this proposed new subdivision (iv) should file same, in duplicate, with the Assistant Administrator for Management, Farmers Home Administration, U.S. Department of Agriculture, Room 5013, South Building, 14th and Independence Avenue SW., Washington, DC 20250, not later than 30 days after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Assistant Administrator for Management during regular business hour. (8:15 a.m.–4:45 p.m.)

Dated: October 18, 1971.

JOSEPH HASPRAY,
Deputy Administrator,
Farmers Home Administration.

[FR Doc.71-15483 Filed 10-22-71;8:49 am]

Rural Telephone Bank

[7 CFR Part 1610]

LOAN POLICIES

Notice of Proposed Rule Making

Notice is hereby given that in accordance with action taken by the Board of Directors of the Rural Telephone Bank on October 14, 1971, pursuant to section 408 of the Rural Electrification Act of 1936, as amended (7 U.S.C. 948), the Rural Telephone Bank proposes to issue regulations with respect to its loan program.

Consideration will be given to any written data, views, or arguments pertaining to the proposed regulations which are submitted in writing in triplicate to the Governor, Rural Telephone Bank, c/o Rural Electrification Administration, U.S. Department of Agriculture, 12th and Independence Avenue SW., Washington, DC 20250, not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the office of the Assistant Governor, Rural Telephone Bank, Room 4050, South Agriculture Building, 12th and Independence Avenue SW., Washington, DC.

The proposed regulations would be incorporated as Part 1610 of a new Chapter XVI in Title 7 in the Code of Federal Regulations, as follows:

PART 1610—LOAN POLICIES

Sec.
1610.1 General.
1610.2 Loan authorizations.
1610.3 Loan applications.
1610.4 Minimum Bank loan.
1610.5 Concurrent REA and Bank loans.
1610.6 Exclusive Bank financing for current loan needs.
1610.7 Acquisition of certain exchange facilities.
1610.8 Adoption of applicable REA policies.

AUTHORITY: The provisions of this Part 1610 issued under 85 Stat. 29 et seq.; 7 U.S.C. 931 et seq.

§ 1610.1 General.

Loans made by the Governor of the Rural Telephone Bank (the "Bank") will be made in conformance with title IV of the Rural Electrification Act of 1936 (the "Act"), as amended (7 U.S.C. 941 et seq.), and this Part 1610. The making of loans will commence as soon as practicable after January 1, 1972.

§ 1610.2 Loan authorizations.

The aggregate amount of loans made will not exceed the amount authorized by the Board of Directors (the "Board") of the Bank.

NOTE: At its October 14, 1971, meeting, the Board authorized $63 million for loans in the fiscal year ending June 30, 1972.

§ 1610.3 Loan applications.

No application for a loan will be considered by the Bank until it has been reviewed by the Rural Electrification Administration (REA), and the Governor has determined, based on such review, the eligibility of the applicant for a Bank loan and the amount thereof. Loan application forms are available from REA on request. Applications previously submitted to REA need not be resubmitted to be considered for partial or complete Bank financing. In accordance with section 408(b)(2) of the Act (7 U.S.C. 948(b)(2)), an application for a loan from a telephone system with an average subscriber density of three or fewer per mile will be processed for a Bank loan if the applicant elects to be considered for such a loan in preference to a loan from REA.

§ 1610.4 Minimum Bank loan.

A Bank loan will not be made unless the applicant qualifies for a Bank loan of at least $50,000.

§ 1610.5 Concurrent REA and Bank loans.

The Bank will consider making a loan concurrently with REA when the Governor finds that the applicant could, consistently with achieving the objectives of the Act and with prudent operations, produce net income or margins before interest at least equal to 150 percent of the interest requirements on all its outstanding and proposed loans, assuming a composite annual interest cost on the loans for current needs of between 2 percent and 4 percent. If made, the Bank's concurrent loan will be conditioned on REA's making the minimum loan that is necessary to enable the applicant to qualify for a Bank loan with an interest rate of 4 percent covering the balance of its current loan needs, as determined by the Governor, and subject to § 1610.4, the Bank loan will be for the balance of such current loan needs.

§ 1610.6 Exclusive Bank financing for current loan needs.

The Bank will consider making a loan for the applicant's total current loan needs as determined by the Governor when the Governor finds that the applicant could, consistently with achieving the objectives of the Act and with prudent operations, produce net income or margins before interest at least equal to 150 percent of the interest requirements on all its outstanding and proposed loans, assuming an annual interest rate on the loan for the current needs of at least 4 percent. If made, such loan will bear interest at the highest annual rate (expressed as a multiple of one-half percent) which the borrower can pay and meet the aforesaid interest coverage and related criteria, but not less than 4 percent nor more than 8.5 percent.

§ 1610.7 Acquisition of certain exchange facilities.

In the interest of making optimum use of the Bank's loan funds, a Bank loan for the acquisition of exchange facilities under section 408(a)(2) of the Act (7 U.S.C. 948(a)(2)) will not be recommended by the Governor for approval by the Secretary of Agriculture unless the Governor determines that the acquisition is reasonably necessary to improve the efficiency, effectiveness, or financial stability of the borrower's telephone system, that the location and character of the proposed acquisition are such that the acquisition is reasonably necessary to accomplish such improvement, and, that the amount of the requested loan for such acquisition is reasonably justified by the nature and scope of the improvement which the acquisition would effect.

§ 1610.8 Adoption of applicable REA policies.

The policies embodied in the REA Bulletins identified below, as they may be amended or supplemented from time to time, will, insofar as applicable, be utilized by the Governor in carrying out the Bank's loan program to the extent that (a) such policies are consistent with title IV of the Act (7 U.S.C. 941 et seq.) and with specific policies approved by the Board from time to time, and (b) such policies have not been rescinded, modified, or superseded by the Board with respect to the Bank's lending program. The aforesaid bulletins are as follows:

Bulletin series:	Subject matter
300–309	General.
320–327	Loans.
340–388	Design and construction.
400–415	General operations.
440–448	Technical operation and maintenance.
460–466	Accounting and examination.

(NOTE: A current list and summary description of the REA Bulletins referred to above appeared in Volume 36, No. 188 of the FEDERAL REGISTER issued Sept. 28, 1971, at page 19069 as an amendment to Part 1701, Title 7, of the Code of Federal Regulations.)

Dated: October 20, 1971.

E. C. WEITZELL,
Acting Governor,
Rural Telephone Bank.

[FR Doc.71-15490 Filed 10-22-71;8:49 am]

DEPARTMENT OF THE INTERIOR

National Park Service

[36 CFR Part 7]

BIGHORN CANYON NATIONAL RECREATION AREA, MONT. AND WYO.

Aircraft; Designated Airstrip

Notice is hereby given that pursuant to the authority contained in section 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3), the Act of October 15, 1966 (80 Stat. 913, 16 U.S.C. 460t), 245 DM1 (27 F.R. 6395) as amended, and National Park Service Order No. 66 (36 F.R. 13802), it is proposed to add § 7.92 to Title 36 of the Code of Federal Regulations as set forth below.

The purpose of this regulation is to designate within Bighorn Canyon National Recreation Area the Fort Smith landing strip as an airstrip for the use of the public.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. However, since this regulation relaxes restrictions on the public, comment thereon is deemed unnecessary and not in the public interest. The amendment will thus take effect immediately upon its publication in the FEDERAL REGISTER.

Section 7.92 is added as follows:

§ 7.92 Bighorn Canyon National Recreation Area.

(a) *Aircraft-designated airstrip.* (1) Fort Smith landing strip, located at approximate latitude 45°19′ N., approximate longitude 107°55′41″ W. in the S½S½SE¼ sec. 8, and the S½SW¼ SW¼ sec. 9, T. 6 S., R. 31 E., Montana Principal Meridian.

J. LEONARD VOLZ,
Director, Midwest Region.

[FR Doc.71-15457 Filed 10-22-71;8:47 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 121, 131, 135e, 144]

DIETHYLSTILBESTROL

Proposal to Increase Withdrawal Period

Diethylstilbestrol (DES) is approved for use in cattle and sheep feed on the basis that no residues will be present in the edible tissues at the time of slaughter. Such use requires that DES feeds be withdrawn 48 hours prior to slaughter. Recently, however, residues detected in liver samples by the Consumer and Marketing Service of the U.S. Department of Agriculture have been reported to the Food and Drug Administration.

Accordingly, the Commissioner of Food and Drugs has concluded that a 7-day withdrawal period is a more practical period of time which is more certain to be followed in practice and provides an additional safety factor to assure that no residues of DES will result from its use. Therefore, the Commissioner proposes that the 48-hour withdrawal period required prior to slaughter be extended to 7 days.

All labels and labeling for the use of DES feeds which now include a 48-hour withdrawal period should be revised as soon as possible to provide a 7-day withdrawal period, and such revised labeling should be placed into effect prior to the publication of final action on this proposal. In any event, if this proposal is adopted essentially as set forth, such revised labeling must be accomplished within 30 days of issuance of the final order based upon this proposal. The labeling changes discussed in this proposal may be accomplished by overprinting, sticker, or other suitable means.

All holders of new animal drug applications deemed approved pursuant to section 512(c) of the Federal Food, Drug, and Cosmetic Act are required to submit revised labeling pursuant to § 135.13a(d) of the new animal drug regulations (21 CFR 135.13a). Such supplemental applications must be submitted within 30 days of issuance of a final order based upon this proposal.

All holders of new animal drug applications providing for the manufacture of animal feeds bearing or containing DES approved pursuant to section 512(m) of the act are required to submit revised labeling along with reference to the application number (FD-1800) that provided the basis upon which the DES medicated animal feed was last approved. Such revised labeling must be submitted within 30 days of issuance of a final order based upon this proposal.

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343-51; 21 U.S.C. 360b, 371(a)) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes to amend Parts 121, 131, 135e, and 144, as follows:

1. In the table in § 121.241(b) by replacing the words "48 hours" with the words "7 days" in the text of the "Limitations" column for items 1 and 2.

2. In § 131.20 under "Diethylstilbestrol in Animal Feeds" by replacing the words "48 hours" with the words "7 days."

3. In § 135e.18(g) by replacing the words "48 hours" with the words "7 days" in the text in the "Limitations" column.

(4) In the first sentence of § 144.26(b) (38) by replacing the words "48 hours" with the words "7 days."

Interested persons may, within 15 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, Md. 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: October 21, 1971.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.71-15583 Filed 10-22-71;8:51 am]

[21 CFR Part 295]

CERTAIN LIQUID FURNITURE POLISH

Extension of Time for Filing Comments on Proposed Rule Making

The notice published in the FEDERAL REGISTER of September 8, 1971 (36 F.R. 18012), proposing packaging standards for certain liquid furniture polish, provided for the filing of comments within 30 days after said date.

The Commissioner of Food and Drugs has received a request to extend such time and, good reason therefor appearing, the time for filing comments regarding the subject proposal is extended to November 7, 1971.

This action is taken pursuant to provisions of the Poison Prevention Packaging Act of 1970 (secs. 2(4), 3, 5, 84 Stat. 1670-72; 15 U.S.C. 1471-74) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: October 14, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-15466 Filed 10-22-71;8:47 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 19330; FCC 71-1052]

FM BROADCAST STATIONS

Table of Assignments, Chico, Calif.

In the matter of amendment of § 73.202, Table of Assignments, FM Broadcast Stations (Chico, Calif.), Docket No. 19330, RM-1621.

1. The Commission has before it a petition for rule making (RM-1621) to amend the FM Table of Assignments (§ 73.202 of the rules) to add a third Class B assignment to Chico, Calif., filed by Odyssey Radio, Inc.

2. Petitioner contends that Chico, Calif., which currently has two Class B assignments, should have a third: Channel 258. According to the petition this channel could be added to the table without requiring any changes in other assignments or running afoul of any applicable requirements.

3. Petitioner describes Chico as being the cultural and economic center of the North Sacramento Valley, an area of considerable economic and population growth. Because of the distribution of population, petitioner contends that a Class A station would not be able to cover the area adequately and because of the intermixture involved, would be unable to survive competitively. In its view the area is underserved as compared with other valley areas in California, a matter accentuated when recognition is given to the considerable college enrollment in and near Chico. Thus, the nearly 20,000 population figure for Chico would be supplemented by almost 13,000 students there and in Marysville.[1] In its view, this college population has greater significance than mere numbers, as the students represent a separate interest group for programing and advertising. The best way to serve the populations involved would be from Chico, it is said, where good sites to provide areawide coverage are available. Finally, the petition includes data to establish that the assignment could be made consistent with our rules and without disturbing existing assignments.

4. Although we would not normally assign three channels to a community the size of Chico, petitioner has raised several points which we believe warrant consideration. In particular, petitioner and other parties wishing to submit comments, should address themselves to Chico's position in the area and the need to utilize Chico as the location of an additional assignment in the area. Conversely, parties may offer information to establish the preferability of assigning this channel to another community in the area. In either event, we are particularly desirous of receiving information on the preclusion impact such an assignment would have.[2] By instituting this proceeding we do not express a view, even tentatively, that the requested amendment to the FM Table is warranted. Rather our purpose is limited to permitting interested parties an opportunity to provide comments which would be addressed to the questions we have regarding this proposal.

5. 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 the proposal 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.

6. 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:

City	Channel No.
Chico, Calif.	229, 236, 258.

7. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules, interested persons may file comments on or before November 30, 1971, and reply comments on or before December 10, 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.

8. 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.

9. 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: October 14, 1971.

Released: October 19, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[3]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.71-15507 Filed 10-22-71;8:51 am]

[1] Petitioner also mentions the Davis Branch of the University of California, but it is located well beyond a Class B assignment's 1 mv/m contour.

[2] By this we mean the places where this channel and the three above and below it could not be used because of this proposed assignment at Chico, but could be used in the absence of the proposed assignment. In addition, data should be submitted showing other channels which would be available for assignment to communities in the precluded areas.

[3] Commissioner Reid not participating.

[47 CFR Part 73]

[Docket No. 19331; FCC 71-1053]

FM BROADCAST STATIONS

Table of Assignments, Jacksonville, N.C.

In the matter of amendment of § 73.202, *Table of Assignments, FM Broadcast Stations* (Jacksonville, N.C.); Docket No. 19331, RM-1698.

1. Notice of proposed rule making is hereby given regarding the amendment of the FM Table of Assignments (§ 73.202 of the rules) to add a third FM assignment (Channel 253C) to Jacksonville, N.C.

2. Petitioner, Brown Broadcasting Co., Inc. (Brown), contends that the proposed assignment is necessary to provide additional service for Jacksonville and Onslow County in which it is located, and to serve currently unserved areas along the coast south of Jacksonville. Jacksonville currently has two Class A FM stations and three AM stations (two of them daytime-only). Specifically, Brown states that the two current Class A operations are unable to serve a substantial unserved area which a Class C assignment would be able to serve. Brown points to the 16 percent population increase for Jacksonville[1] and an even greater increase for Onslow County,[2] in which it is the county seat and largest community. Brown attaches particular importance to Camp Lejeune, 4 miles east of Jacksonville, and states that the base has a population of 57,710. Considerable information is provided regarding the business and governmental activities in Jacksonville, Onslow County and at Camp Lejeune. In sum, petitioner contends that this additional assignment is called for to provide a much needed wide area service for the entire area.

3. The population of Jacksonville, if considered by itself, would not seem to warrant a third FM assignment. However, such a view fails to take into account the nearby 60,000 military personnel and dependents who live at nearby Camp Lejeune. In any event, it would permit coverage of the large expanse of the military reservation and provide service over a wide area, some of which is unserved at present. The latter point is not as significant as it might appear, for current assignments, if effectuated with full facilities, would serve this unserved area.

4. While we believe that this proposal has sufficient merit to initiate this proceeding, there are two troublesome points to be dealt with before any such assignment could be made. First, we are concerned with the possible effects of mixture of Class C and Class A channels, since there are two Class A assignments already in operation. It is no bargain to gain this Class C if the effect were to end the economic viability of the Class A's and as a result their current service to Jacksonville. Thus we seek from petitioner and others information directed to this point. Second, the effect of assigning Channel 253 as a third channel at Jacksonville would be the preclusion of otherwise possible assignments, e.g., that of Channel 252A to Belhaven, N.C., a community of 2,242 now without any FM assignment. We are interested in comments directed to this consequence of the assignment and information regarding other channels which could be assigned in places affected such as Belhaven. Thus, the purpose of this proceeding is to determine whether the proposed assignment can be made consistent with our obligations under section 307(b) of the act.

5. *Cutoff procedure.* As in other recent FM rule-making proceedings, the following procedures would 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

[1] To a 1970 figure of 15,760.

[2] The 1970 census figures for the county are: 1960—82,706; 1970—101,404; for an 18,698 increase, or 22.6 percent.

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.

6. 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 follows:

City	*Proposed*
Jacksonville, N.C.	221A, 253C, 288A.

7. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules, interested persons may file comments on or before November 30, 1971, and reply comments on or before December 10, 1971. All submissions by parties to this proceeding or by persons acting in behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings.

8. 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: October 14, 1971.

Released: October 19, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[3]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.71-15508 Filed 10-22-71;8:51 am]

[47 CFR Part 73]

[Docket No. 19332; FCC 71-1072]

FM BROADCAST STATIONS

Table of Assignments, Parsons, Kans.

In the matter of amendment of § 73.606, *Table of Assignments, Television Broadcast Stations* (Parsons, Kans.); Docket No. 19332, RM-1736.

1. On January 13, 1971, the Parsons District Schools (Parsons Educators) filed a petition with this Commission requesting the assignment of television Channel 39 to Parsons, Kans., as a reserved noncommercial educational television channel. No other revisions in our table of assignments were proposed, nor were there any comments filed in respect to the petition.

[3] Commissioner Reid not participating.

2. Parsons, population 13,015, is the county seat of Labette County, Kans. (25,775 residents). The community has no commercial or educational television assignment at this time. However, according to petitioner, it is served by a community antenna system (American Television and Communications Corp.) which has in excess of 2,450 subscribers.[1]

3. Petitioner's filing was exceedingly brief and set out only the facts about television service, that the community had no assignment, that Parsons Educators wished a reserved assignment, and that if an assignment were made they would apply for the channel to be licensed to them. 1960 population statistics were also offered. The petition's accompanying engineering statement clearly indicates that either Channel 38 or Channel 39 can be assigned to Parsons on a reserved basis, and speaks for the assignment of Channel 39 by making a showing that that channel would be more flexible in the Parsons area with respect to the location of a tall transmitting tower.

4. Normally we would hesitate to initiate a rule making proceeding in light of the sparseness of petitioner's showing, i.e., in effect, only a showing that Channel 39 can be assigned to Parsons, Kans. The matter of using valuable frequency space, perhaps entirely or essentially for in-school instructional material, is before us and should not be dealt with casually. We are aware however, of petitioner's intention to establish an educational service, and therefore, in view of the strong public interest involved in advancing sound proposals to bring the public education and information through television, we have decided to give petitioner and other interested parties the opportunity to explore, in a rule making proceeding, the public interest factors involved in the possible assignment of Channel *39 to Parsons, Kans.

5. Petitioner and other parties interested in this proceeding should file comments explaining and discussing the prospective use of, and need for, Channel *39 at Parsons as well as other public interest considerations. We wish to note that the expected use of the channel is important, for example, if petitioner proposes to use the channel solely for in-school training, it may be both in the public interest and the interest of Parsons Educators that they use the Instructional Television Fixed Service in place of the standard television channel requested.

6. With the above material before us, we propose to consider the following revision in our Television Table of Assignments (§ 73.606 of our rules) with respect to the city listed below:

City	Channel No.	
	Present	Proposed
Parsons, Kans.		*39

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

8. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules and regulations interested parties may file comments on or before November 30, 1971, and reply comments on or before December 10, 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.

9. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and 14 copies of all written comments, reply comments, pleadings, briefs, or other documents, shall be furnished the Commission.

10. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Broadcast and Docket Reference Room at its headquarters in Washington, D.C. (1919 M Street NW.)

Adopted: October 14, 1971.

Released: October 19, 1971.

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

[FR Doc.71-15509 Filed 10-22-71;8:51 am]

[1] Population figures cited are from the 1970 U.S. census.

[2] Commissioner Reid not participating.

[47 CFR Part 73]

[Docket Nos. 16004, 18052]

FIELD STRENGTH CURVES AND MEASUREMENTS FOR FM AND TV BROADCAST STATIONS

Order Extending Time for Filing Reply Comments

In the matter of amendment of §§ 73.333 and 73.699, *Field Strength Curves for FM and TV Broadcast Stations;* Docket No. 16004, and amendment of part 73 of the rules regarding field strength measurements for FM and TV broadcast stations; Docket No. 18052.

1. The further notice of proposed rule making in the above entitled proceeding was adopted on April 14, 1971, and published in the FEDERAL REGISTER on April 23, 1971 (36 F.R. 7689). The date for filing comments has expired and the date for filing reply comments is presently October 15, 1971.

2. On October 12, 1971, the Association of Maximum Service Telecasters, Inc. (MST) filed a request for extension to and including November 29, 1971 in which to file reply comments.[1] MST states that the proposals at issue in this proceeding are of vital importance to television broadcasting and entail matters of considerable complexity. It further states that the comments advance several counterproposals that require independent engineering analysis.

[1] A similar request for a lesser amount of time was filed by the law firm of McKenna and Wilkinson.

3. We are of the view that the additional time requested is warranted and would serve the public interest. *Accordingly, it is ordered,* That the time for filing reply comments in this joint proceeding is extended to and including November 29, 1971.

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

Adopted: October 14, 1971.

Released: October 18, 1971.

[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.71-15505 Filed 10-22-71;8:50 am]

RENEGOTIATION BOARD

[32 CFR Part 1499]

RENEGOTIATION REGULATIONS

Proposal Regarding Accounting Agreements and Adjustments

The Renegotiation Board pursuant to section 109 of the Renegotiation Act of 1951, as amended (50 U.S.C.A., app. section 1211 et seq.), proposes to issue the following regulation not less than thirty (30) days after the date of this publication in the FEDERAL REGISTER.

Interested persons are hereby notified that any changes, to be considered, must be presented, in writing, to the Renegotiation Board, 1910 K Street NW., Washington, DC 20446, within thirty (30) days after the date of this publication in the FEDERAL REGISTER.

Written material or suggestions submitted will be available for public inspection during regular business hours in the library at the principal office of the Board 1910 K Street NW., Washington, DC.

Dated: October 20, 1971.

LAWRENCE E. HARTWIG,
Chairman.

Part 1499 is amended by adding at the end thereof a new § 1499.2-19 to read as follows:

1499.2-19 *Renegotiation Bulletin No. 19: Special accounting agreements and unilateral accounting adjustments.* (a) Section 1459.1(b)(1) of this chapter provides that "income received or accrued and costs paid or incurred will be considered as having been received or accrued or paid or incurred in the fiscal year to which such items are to be attributed in accordance with the method of accounting employed by the contractor in determining net income for Federal income tax purposes."

(b) For renegotiation purposes, the effort of the Board is to match sales and costs as much as practicable in order to reflect renegotiable profits properly. When sales and the related costs are reported in different fiscal years for tax purposes and are to be brought together into the same fiscal year for renegotiation purposes, the matching is generally effected by moving the costs into the year of the receipts or accruals. [In certain limited situations, the Board accomplishes the matching by moving receipts or accruals into the fiscal year in which the related costs were paid or incurred; see, for example, § 1457.5 of this chapter relating to contract price adjustment clauses.]

(c) In some cases, although a contractor's method of accounting may be acceptable for Federal income tax purposes, it may not adequately match sales and costs and thus may not properly reflect the profits realized in a particular fiscal year from renegotiable business performed in that year. The inaccuracies may be of sufficient magnitude to render the contractor's tax accounting method, or some part of it, unsuitable for renegotiation purposes. In such cases, the Board is authorized under section 103(i) of the Act to substitute such method of accounting as, in the opinion of the Board, will properly reflect the contractor's sales and costs, and thus his profits, for the fiscal year. To achieve this result, in a proper case, the Board will enter into a "special accounting agreement" with the contractor.

(d) Special accounting agreements: Such agreements are made pursuant to § 1459.1(b)(2) of this chapter. In addition to effectuating the desired change of accounting method for renegotiation purposes for the fiscal year under review, the agreement is required to contain specified provisions designed to prevent double recognition of sales or costs and to achieve proper and consistent accounting treatment in subsequent years. Specifically, by the agreement the method of accounting adopted therein is required to be used for renegotiation purposes not only in the fiscal year under review, but in all subsequent years as well. As under the Internal Revenue Code, consistency of accounting treatment is thus assured.

(e) The matching of sales and costs is, of course, subject to the necessary limitation that any amounts included in the renegotiation of a fiscal year will not be transferred by agreement to a later fiscal year if, or to the extent that, such transfer would affect the result reached in the renegotiation of such earlier fiscal year.

(f) Situations in which the Board commonly enters into a special accounting agreement include the following:

(1) When the contractor employs the cash receipts and disbursements method of accounting for Federal income tax purposes, but the accrual method of accounting is considered more appropriate for renegotiation purposes. See § 1459.1(b)(2)(ii) of this chapter.

(2) When, for contracts performed over a period of more than 1 fiscal year, the completed contract method of accounting is considered appropriate for renegotiation purposes. See § 1459.1(b)(2)(iii) of this chapter.

(3) When the contractor, reporting under the accrual method of accounting for Federal income tax purposes, deducts costs which can be shown by his accounting records to relate to deliveries made in a later year or years, and it is agreed that such costs should be amortized over the period of the related deliveries. Such costs include preproduction costs and research and development expenses.

(4) When the contractor deducts in the year of payment, for Federal income tax purposes, amounts paid to officers or employees under bonus and profit-sharing plans, and it is agreed that such amounts should be reported as costs for renegotiation purposes in the year in which they are earned.

(5) When it is agreed that for renegotiation purposes manufacturing overhead applicable to work-in-process or finished goods should be deferred to the year or years in which the related deliveries are made, although for Federal income tax purposes the particular contractor may be permitted by the Internal Revenue Service to deduct such costs when incurred.

(6) When the contractor, for Federal income tax purposes, deducts costs incurred as a result of guarantees or warranties given in connection with sales made in an earlier year, and it is agreed that for renegotiation purposes such amounts should be taken as costs in such earlier year.

(g) When the Board and the contractor desire to provide for an accounting treatment of a special nonrecurring item or items of cost or income different from that accorded such item or items under the method of accounting employed by the contractor for Federal income tax purposes, a letter form of special accounting agreement may be used. This form of agreement deals with the repositioning of specific amounts between specific fiscal years, and includes other provisions to prevent the double allowance of an item of cost or the double renegotiation of an item of income.

(h) The Board will entertain a request for a special accounting agreement in any case in which the contractor believes that his method of accounting for Federal income tax purposes, either in whole or in part, is manifestly unsuitable for the purpose of renegotiation because it does not properly reflect his profits for a fiscal year and thus does not provide a fair and equitable basis for fiscal year renegotiation. Any such request should ordinarily be made prior to the processing of the case in the Accounting Division of the regional board.

(i) Unilateral accounting adjustments: Ordinarily the need for accounting adjustments to deviate from the Federal income tax basis is met by special accounting agreement. If necessary, however, the Board will exercise its authority under section 103(f) and (i) of the Act to make such accounting adjustments without the consent of the contractor. Such adjustments, when made, are generally designed to match costs with the receipts or accruals to which they relate, and thereby to reflect profits in a manner appropriate to the requirements and objectives of the renegotiation law.

[FR Doc.71-15489 Filed 10-22-71;8:49 am]

Notices

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1971 Rev., Supp. No. 5]

SUMMIT INSURANCE COMPANY OF NEW YORK

Surety Company Acceptable on Federal Bonds

A certificate of authority as an acceptable surety on Federal bonds has been issued by the Secretary of the Treasury to the following company under sections 6 to 13 of title 6 of the United States Code. An underwriting limitation of $688,000 has been established for the company.

Name of company, location of principal executive office, and State in which incorporated

Summit Insurance Company of New York
Houston, TEXAS
New York

Certificates of authority expire on June 30 each year, unless sooner revoked, and new certificates are issued on July 1 so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact fidelity and surety business and other information. Copies of the circular, when issued, may be obtained from the Treasury Department, Bureau of Accounts, Audit Staff, Washington, D.C. 20226.

Dated: October 20, 1971.

[SEAL] JOHN K. CARLOCK,
Fiscal Assistant Secretary.

[FR Doc.71-15497 Filed 10-22-71;8:50 am]

DEPARTMENT OF THE INTERIOR

National Park Service

LAKE MEAD NATIONAL RECREATION AREA

Notice of Intention To Negotiate a Concession Contract

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Eldorado Canyon Resort, Inc., authorizing it to provide concession facilities and services for the public at Lake Mead National Recreation Area for a period of five (5) years from January 1, 1972, through December 31, 1976.

The foregoing concessioner has performed its obligations under the expiring contract to the satisfaction of the National Park Service, and therefore, pursuant to the Act cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. However, under the Act cited above, the Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted within thirty (30) days after the publication date of this notice.

Interested parties should contact the Chief, Division of Concessions Management, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

LAURENCE C. HADLEY,
Assistant Director,
National Park Service.

OCTOBER 13, 1971.

[FR Doc.71-15458 Filed 10-22-71;8:47 am]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

HUMANELY SLAUGHTERED LIVESTOCK

Identification of Carcasses; Changes in Lists of Establishments

Pursuant to section 4 of the Act of August 27, 1958 (7 U.S.C. 1904), and the statement of policy thereunder in 9 CFR 381.1, the lists (36 F.R. 17451 and 19270) of establishments which are operated under Federal inspection pursuant to the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) and which use humane methods of slaughter and incidental handling of livestock are hereby amended as follows:

The following table lists species at additional establishments and additional species at previously listed establishments that have been reported as being slaughtered and handled humanely.

ESTABLISHMENTS SLAUGHTERING HUMANELY

Name of establishment	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Equines
Frosty Morn Meats, Inc.	731					(*)	
Lee—Johnson, Inc.	835	(*)				(*)	
Standard Beef, Inc.	6770	(*)					
Duffy Boneless Beef Co.	7305	(*)					
Seitz—Bowers Processing Plant	7685	(*)				(*)	
Montana State Prison	7707	(*)	(*)			(*)	
Ungers Garfield Locker	7797	(*)				(*)	
Elm Hill Meats, Inc.	7936	(*)				(*)	
Charles J. Schmidt & Co.	7946	(*)					
St. Joseph Meat Market, Inc.	8916	(*)				(*)	
Plantenberg Market, Inc.	8931	(*)				(*)	
Peters, Inc.	8962	(*)					
Peters, Inc.	8963					(*)	
New establishments reported: 13.							
Minch's Wholesale Meats, Inc.	72			(*)			
Granite State Packing Co.	785		(*)				
Schmaltz Meats	7605			(*)			
Hope Locker Plant	7609			(*)			
Bud's Food Market	7637			(*)			
City Meat Co.	7677			(*)			
Havre Abattoir	7688				(*)		
Spikes Lockers	8054		(*)	(*)			
Species added: 9.							

Done at Washington, D.C., on October 20, 1971.

L. V. SANDERS,
Acting Deputy Administrator,
Meat and Poultry Inspection Program.

[FR Doc.71-15501 Filed 10-22-71;8:51 am]

Rural Telephone Bank

BYLAWS OF BANK

The Telephone Bank Board adopted the following on October 14, 1971, as the bylaws of the Rural Telephone Bank established by Public Law 92-12, approved May 7, 1971:

BYLAWS OF THE RURAL TELEPHONE BANK

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BYLAWS OF THE RURAL TELEPHONE BANK

ARTICLE I—NAME, ORGANIZATION, PURPOSES, AND LOCATION

SECTION 1.1. *Name, organization, and purposes.* The name of the body corporate by and for which these bylaws are adopted is "Rural Telephone Bank" (hereinafter called the "Bank"). It is an agency and instrumentality of the United States, established by the Act of May 7, 1971, 85 Stat. 29, 7 U.S.C. 931–950(b) (hereinafter called the "Act"), for the general purposes of obtaining an adequate supply of supplemental funds to the extent feasible from non-Federal sources, to utilize said funds in the making of loans pursuant to the Act, and to conduct its operations to the extent practicable on a self-sustaining basis.

SEC. 1.2. *Location of offices.* The Bank shall have an office in the District of Columbia, and additional offices at such other places as the Governor, with the concurrence of the board of directors of the Bank (hereinafter called the "Board") may from time to time designate.

ARTICLE II—CAPITAL STOCK AND SPECIAL FUND EQUIVALENTS

SEC. 2.1. *Classes of stock.* The capital stock of the Bank shall consist of three classes, to wit, Class A, Class B, and Class C.

SEC. 2.2. *Rights, powers, privileges, and preferences of each class of stock.* (a) Class A stock shall have a par value of one dollar ($1.00) per share and shall be issued only at par and only to the Administrator of the Rural Electrification Administration (hereinafter called the "Administrator") on behalf of the United States for capital furnished to the Bank by the United States as provided in section 406(a) of the Act, and shall be nonvoting stock. Such stock shall be entitled to a cumulative return, payable from the Bank's income, at the rate of two per centum (2%) per annum. Such stock shall be redeemed and retired in such amounts and at such times as provided in section 406(c) of the Act. Upon dissolution or liquidation of the Bank, Class A stock shall be retired at par before any payment is made to holders of Class B or Class C stock, and the holder of Class A stock shall be entitled to share pro rata with the holders of Class B stock then outstanding in the surpluses and contingency reserves remaining after the payment of all of the Bank's liabilities and after retirement of all classes of stock at par as provided in section 411 of the Act. Class A stock shall not be transferable.

(b) Class B stock shall have a par value of one dollar ($1.00) per share, shall be issued only at par, shall be held only by the recipients of loans made under section 408 of the Act, and shall be voting stock. No dividends shall be payable on Class B stock, but the holders thereof shall be entitled to patronage refunds in Class B stock as hereinafter provided. Prior to dissolution or liquidation of the Bank, Class B stock may be redeemed and retired only after all shares of Class A stock shall have been redeemed and retired: *Provided, however,* That the Board may, under rules of general application adopted by it and upon agreement with the stockholder, provide for the conversion of Class B stock into Class C stock upon payment of all amounts owed by a holder of Class B stock to the Bank. Upon dissolution or liquidation of the Bank, holders of Class B stock shall be entitled to share pro rata with the holder of Class A stock then outstanding in the surpluses and contingency reserves remaining after the payment of all of the Bank's liabilities and after retirement of all classes of stock at par as provided in section 411 of the Act. Class B stock shall not be transferable, either absolutely or by way of collateral, except in connection with the assumption by the transferee, with the approval of the Governor, of all or part of the transferor's loan from the Bank.

(c) Class C stock shall have a par value of one thousand dollars ($1,000) per share, shall be issued only at par, shall be held only by borrowers or by corporations and public bodies which have received a loan or loan commitment from the Rural Electrification Administration (hereinafter called "REA"), or by organizations controlled by such borrowers, corporations and public bodies, and shall be voting stock. At such times and in such amounts as the Board may designate, dividends may be declared and paid to holders of Class C stock, but only from income of the Bank. Until all Class A stock is retired, the annual rate of any such dividend shall not exceed the current average rate payable on the bonds, debentures, notes and other evidences of indebtedness issued by the Bank (hereinafter collectively called "telephone debentures"). No dividend on Class C stock shall be paid at any time when any portion of the cumulative 2 percent return on Class A stock required by section 406(c) of the Act remains unpaid. Prior to dissolution or liquidation of the Bank, Class C stock may be redeemed and retired only after all shares of Class A stock shall have been redeemed and retired. Upon dissolution or liquidation of the Bank, holders of Class C stock shall be entitled to retirement of their stock at par after payment of all liabilities of the Bank and after retirement of all Class A and Class B stock at par, but shall not be entitled to share in any remaining surpluses or contingency reserves, as provided in section 411 of the Act. Class C stock shall not be transferable, absolutely or by way of collateral, except to a borrower, or a corporation or public body which has received a loan or loan commitment from REA or an organization controlled by such borrowers, corporations, or public bodies.

(d) No holder of Class B or Class C stock shall be entitled to more than one vote, regardless of the number and class or classes of shares held, nor shall Class B and Class C stockholders, regardless of their number, which are owned or controlled by the same person, group of persons, firm, association or corporation be entitled to more than one vote.

SEC. 2.3. *Share certificates.* (a) The Bank shall issue certificates evidencing the purchase of shares of stock of the Bank but only upon payment in full of the par value thereof. The Bank shall also issue certificates evidencing distribution of patronage refunds as hereinafter provided. The certificates for Class A stock shall be in such form, satisfactory to the Administrator, as may be prescribed by the Board from time to time. Certificates for Class B and Class C stock shall be in such form as the Board may from time to time prescribe. The certificates shall be signed by the Governor and attested by the Secretary of the Bank. No certificate shall be valid unless it is signed as herein provided. The Bank shall act as its own transfer agent or registrar.

(b) All certificates of each class shall be consecutively numbered. The name of the entity owning the shares represented thereby, with the number of such shares and the date of issue, shall be entered on the Bank's books. All certificates surrendered to the Bank for transfer or conversion shall be canceled, and n new certificate shall be issued until the former certificate for a like number of shares shall have been surrendered and canceled, except that in the case of a lost, destroyed, or mutilated certificate, a new one may be issued therefor upon such terms and indemnity to the Bank as the Board may prescribe.

SEC. 2.4. *Transfer of shares.* Shares in the capital stock of the Bank shall be transferrd only on the books of the Bank by authorization from the holder thereof or by his legal representative upon proof of his authority filed with the Secretary of the Bank, and on surrender for cancellation of such shares. The entity in whose name shares stand on the books of the Bank shall be deemed to be the owner thereof for all purposes.

SEC. 2.5. *Date for determination of shareholder's rights.* The Board may fix a date, not exceeding sixty (60) days preceding the date of any meeting of shareholders, any dividend payment date or any date for the determination or allotment of rights, as a record date for the determination of shareholders entitled to notice of and to vote at such meeting, or entitled to receive such dividend or rights as the case may be. In lieu of fixing such date, the Board may fix a time, not exceeding sixty (60) days preceding the date of any meeting of shareholders, any dividend payment date or any date for the determination or allotment of rights, during which the books of the Bank shall be closed against transfer of shares.

SEC. 2.6. *Special fund equivalents.* The amount to be paid by any entity into the special fund provided for in section 406(f) of the Act and the rights, powers, privileges, and preferences in respect of dividends, patronage refunds, voting rights, transfer of interest, retirement of special fund equivalent and liquidation or dissolution of the Bank accruing to an entity making such a payment, shall, to the extent permitted under the laws of the jurisdiction in which such entity is organized, be determined as if such entity had purchased stock in the Bank for such payment. The Bank shall issue to such entity written evidence, in such form as the Board may from time to time prescribe, of the payment made by such entity into the Bank's special fund established pursuant to said section 406(f) of the Act. Such writing shall comply, in respect of its execution, numbering and the surrender of such writing and the issuance of share certificates or other evidence of payment into the special fund in lieu of the surrendered evidence, with the provisions of section 2.3 above. Evidences of payment into said special fund shall be transferred in the manner provided in section 2.4 above for the transfer of shares of stock. The provisions of section 2.5 above shall also be applicable in respect of such evidences of payment. Each reference in these bylaws to capital stock or to Class B, or Class C stock and to shareholders shall, subject to the first sentence of this section 2.6, be deemed to include evidences, or holders of evidences, of payment into the special fund in lieu of purchase of the class of stock to which reference is made.

SEC. 2.7. *Commonly owned or controlled shareholders.* Each reference in these bylaws to the rights, powers, and privileges of shareholders, shall, in respect of shareholders which are owned or controlled by the same person, group of persons, firm, association, or corporation be deemed to mean that the right, power, or privilege, including, without limitation, the determination of the presence of a quorum or the number necessary to validate a petition provided for in these bylaws, is vested and is to be exercised as if all such shareholders owned or controlled by the same person, group of persons, firm, association or corporation were one shareholder.

ARTICLE III—MEETINGS OF SHAREHOLDERS

SEC. 3.1. *Regular meeting.* A regular meeting of the shareholders shall be held in each even-numbered year, beginning with the year 1974, on such day and at such place and time as may be selected by the Board, for the purpose of electing directors, as provided in section 405(e) of the Act, hearing reports and transacting such other business as may come before the meeting.

SEC. 3.2. *Special meetings.* Special meetings of the shareholders may be called by the Governor of the Bank, by resolution of the Board, upon a written request signed by seven (7) members of the Board, or by not less than 10 per centum (10%) of the aggregate number of shareholders. It shall be the duty of the Secretary to promptly cause notice of such meeting to be given as hereinafter provided. Special meetings may be held at any place designated by the person or persons calling the meeting.

SEC. 3.3. *Notice.* Written or printed notice stating the place, day, and hour of the meeting, and the purpose or purposes for which the meeting is called, shall be delivered not less than 10 days nor more than 40 days before the date of the meeting, either personally or by mail, by or at the direction of the Secretary, or upon default by the Secretary, by the entities calling the meeting, to each shareholder. If mailed, such notice shall be deemed to be delivered when deposited in the U.S. mail, addressed to the shareholder's address as it appears on the records of the Bank, with postage thereon prepaid. The failure of any shareholder to receive notice of a regular or special meeting of shareholders shall not invalidate any action which may be taken by the shareholders at any such meeting.

SEC. 3.4. *Quorum.* As long as the total number of Class B and Class C shareholders does not exceed one hundred (100), twenty per centum (20%) of the total number of such shareholders present in person shall constitute a quorum. In case the total number of such shareholders shall exceed one hundred (100), twenty (20) such shareholders or five per centum (5%) of such shareholders, present in person, whichever shall be the larger, shall constitute a quorum. If less than a quorum is present at any meeting, a majority of those present in person may adjourn the meeting from time to time without further notice. Shareholders present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough shareholders to leave less than a quorum.

SEC. 3.5. *Voting.* Each shareholder entitled to vote shall be entitled to only one vote upon each matter submitted to a vote at a meeting of shareholders, including one vote with respect to each position for which a director is to be elected. All questions submitted to a vote of shareholders shall be decided by a vote of a majority of the shareholders voting thereon present in person or by proxy.

SEC. 3.6. *Proxies.* At all meetings of shareholders, a shareholder may vote by proxy executed in writing by the shareholder. Such proxy shall be filed with the Secretary before or at the time of the meeting. No proxy shall be voted at any meeting of shareholders unless it shall designate the particular meeting at which it is to be voted, and no proxy shall be voted at any meeting other than the one so designated or any adjournment of such meeting. Any shareholder who has given a proxy may vote in person and such vote shall revoke the proxy theretofore given and shall have the same effect as if the proxy had not been executed. Proxies may only be voted by persons certified to as provided in section 3.7(a) hereof and no such person may vote more than 10 proxies.

SEC. 3.7. *Voting of shares by certain holders.* (a) Shares standing in the name of a corporation, public body, or other organization may be voted by the person certified to by the secretary of such organization as the person authorized to vote by the bylaws or equivalent code of regulations of such organization or, in the absence of such provision, by the board of directors or governing body of such organization.

(b) Shares standing in the name of a receiver may be voted by such receiver, and shares held by or under the control of a receiver may be voted by him without the transfer thereof into his name if authority so to do be contained in an appropriate order of the court by which such receiver was appointed.

(c) A shareholder whose shares are pledged shall be entitled to vote such shares until the shares have been transferred into the name of the pledgee, and thereafter the pledgee shall be entitled to vote the shares so transferred.

ARTICLE IV—DIRECTORS

SEC. 4.1. *Powers.* Except to the extent otherwise required by law or by these bylaws, the management of the Bank shall be vested in the Board.

SEC. 4.2. *Number; initial board.* Until ownership, control, and operation of the Bank, has been converted pursuant to section 410(a) of the Act, the Board shall consist of 13 members. Initially, the

Board shall be composed of the Administrator, the Governor of the Farm Credit Administration, five members designated by the President of the United States (three of whom shall be officers or employees of the U.S. Department of Agriculture but not of REA, and two of whom shall be from the general public and not officers or employees of the United States) and six additional members appointed by the President of the United States from the directors, managers, and employees of entities which have received a loan or loan commitment from REA and of organizations controlled by such entities.

SEC. 4.3. *Meetings to elect directors.* (a) The meeting to elect six directors to replace those appointed by the President provided for in section 405(d) of the Act shall be called and held in conformity with such section.

(b) Thereafter at each meeting held for the purpose of electing directors, six members of the Board shall be elected by holders of Class B and Class C stock, voting noncumulatively, three from among the directors, managers, and employees of cooperative-type entities and organizations controlled by them holding Class B or Class C stock, and three from among the directors, managers, and employees of commercial-type entities and organizations controlled by them holding Class B or Class C stock.

(c) Directors shall be elected by a vote of a majority of those entities and organizations eligible to vote and voting, in person or by proxy.

SEC. 4.4. *Nominations and tenure.* (a) At least seventy (70) days before a meeting at which directors are to be elected, the Board shall select two committees on nominations, to be known, respectively, as the Cooperative Committee and the Commercial Committee. The Cooperative Committee shall consist of three managers, directors, or employees (or any combination thereof) of cooperative-type shareholders. The Commercial Committee shall consist of three managers, directors, or employees (or any combination thereof) of commercial-type shareholders. No member of the Board may serve on any such committee.

(b) Each nominating committee, having due regard for the principle of geographic representation, shall prepare and deliver to the Secretary, at least fifty (50) days before the meeting at which directors are to be elected, a list of nominations for Board members. The list submitted by the Cooperative Committee shall include at least two candidates for each Board position to be filled from among directors, managers, and employees of cooperative-type entities or of organizations controlled by them, or any combination of both, holding Class B or Class C stock; and the list submitted by the Commercial Committee shall include at least two candidates for each Board position to be filled from among directors, managers, and employees of commercial-type entities or of organizations controlled by them, or any combination of both, holding Class B or Class C stock. The Secretary shall be responsible for mailing with the notice of the meeting or separately, but at least ten (10) days before the date of the meeting, a statement of the number of Board members to be elected and the names and addresses of the candidates, grouped to show those nominated by each committee on nominations, to each holder of Class B or Class C stock.

(c) Any twenty (20) or more shareholders acting together may make other nominations by petition of persons eligible to be directors: *Provided, however,* That a petition nominating directors, managers, or employees of cooperative-type entities or of organizations controlled by them holding Class B or Class C stock shall be valid only if signed by at least twenty (20) cooperative-type entities and organizations eligible to vote: *And provided, further,* That a petition nominating directors, managers, or employees of commercial-type entities or organizations controlled by them shall be valid only if signed by at least twenty (20) commercial-type entities and organizations entitled to vote. Nominations by petition, if any, received at least ten (10) days before the meeting, shall be included on the official ballot. Later nominations by petition shall be treated as nominations from the floor.

(d) The chairman shall call for additional nominations from the floor at the meeting of persons eligible to be directors, and nominations shall not be closed until at least 3 minutes have passed during which no additional nomination has been made. No cooperative-type shareholder shall nominate a candidate from among the directors, managers, or employees of commercial-type entities, and no commercial-type shareholder shall nominate a candidate from among the directors, managers, or employees of cooperative-type entities, nor shall such cooperative-type or commercial-type shareholder nominate more than one candidate.

(e) Directors shall be elected for 2 years but they shall hold office until their successors have been duly elected and qualified. Upon the establishment of the fact that a director, at the time of his election, did not, or has since ceased to, have the qualifications required by these bylaws or the Act, the Board shall remove such director from office.

SEC. 4.5. *Vacancies.* Any vacancy occurring on the Board shall be filled by the affirmative vote of the remaining board members for the unexpired portion of the term: *Provided, however,* That the person selected by the Board to fill a vacancy shall be chosen from among the same group (cooperative-type or commercial-type) of directors, managers or employees from which his predecessor on the Board was chosen; *And provided, further,* That the Board shall have no power to choose a successor to a director designated as such by the Act or appointed by the President of the United States.

SEC. 4.6. *Compensation.* Board members designated from the general public, pursuant to section 405(b) of the Act, or appointed or elected pursuant to section 405 (c), (d), or (e) of the Act, shall receive one hundred dollars ($100) for each day or part thereof, spent in the performance of official duties for the Bank, but not to exceed ten thousand dollars ($10,000) per year for the first 3 years after enactment of the Act, and not to exceed five thousand dollars ($5,000) in each year thereafter, and shall be reimbursed by the Bank for travel and other expenses as prescribed by the Board. Directors who are officers or employees of the Department of Agriculture and the Governor of the Farm Credit Administration shall serve as directors without additional compensation. No close relative of a Board member shall receive compensation for serving the Bank, unless the relationship shall have been fully disclosed to the Board prior to his employment and the Board shall have determined that his employment will be beneficial to the Bank.

SEC. 4.7. *Board committees.* The Board may, from time to time, provide for such committees as it deems desirable. The resolution establishing the committee shall prescribe the name and functions of the committee, and shall name the director or directors who shall constitute it and the chairman thereof. A majority of the members of any such committee shall constitute a quorum. Vacancies on any such committee shall be filled by appointment by the Board. The committee shall keep a record of its proceedings and shall report to the Board as and when required by it.

ARTICLE V—MEETINGS OF BOARD

SEC. 5.1. *Regular meetings.* (a) A regular meeting of the Board shall be held without notice, immediately after, and at the same place as, the meeting to elect directors provided for in section 4.3 (a) and section 4.3(b) of these bylaws.

(b) A regular meeting of the Board shall, in addition, be held quarterly at such times and places as designated by the resolution of the Board. Regular meetings of the Board may be held without notice ther than the resolution fixing the time and place thereof.

SEC. 5.2. *Special meetings.* Special meetings of the Board may be called by the Governor or by any three Board members, and it shall thereupon be the duty of the Secretary to cause notice of such meeting to be given as hereinafter provided. The person or persons calling the meeting shall fix the time and place for the holding of the meeting.

SEC. 5.3. *Notice.* Notice of any special meeting shall be given at least seven (7) days, except in an emergency as so determined by the Governor, no less than three (3) days, before the date set for the meeting in writing and delivered in person, by mail or by telegram, to each director. If mailed, such notices shall be deemed to be delivered when deposited in the U.S. mail, addressed to the director at his address as it appears on the records of the Bank, with postage thereon prepaid; and if notice is by telegram, such notice shall be deemed to be delivered when the telegram is delivered to the telegraph company prepaid.

SEC. 5.4. *Quorum.* A majority of the members of the Board shall constitute a quorum for the transaction of business

at any meeting of the Board: *Provided, however,* That if less than a majority of the Board members is present at said meeting, a majority of Board members present may adjourn the meeting from time to time: *And provided, further,* That the Secretary shall notify any absent Board members of the time and place of such adjourned meeting. The act of a majority of the Board members present at a meeting at which a quorum is present shall be the act of the Board except as otherwise provided in these bylaws.

ARTICLE VI—OFFICERS

SEC. 6.1. *Number.* The officers of the Bank shall be the Governor, Secretary, Treasurer, and such other officers as may be determined by the Board from time to time. The offices of Secretary and Treasurer may be held by the same person.

SEC. 6.2. *Election and term of office.* Except for the Governor, the officers shall be elected by the Board at the meeting of the Board held pursuant to section 5.1(a) of these bylaws. If the election of officers shall not be held at such meeting, such election shall be held as conveniently thereafter as may be. Each officer shall hold office until the first meeting of the Board following the next succeeding regular meeting of shareholders or until his successor shall have been elected and shall have qualified. A vacancy in any office shall be filled by the Board for the unexpired portion of the term.

SEC. 6.3. *Removal of officers and agents.* Any officer or agent elected or appointed by the Board may be removed by the Board whenever in its judgment the best interests of the Bank will be served thereby.

SEC. 6.4. *Governor.* The Governor shall be the chief executive officer of the Bank, and, without limiting the generality of the authority vested in him by law, shall:

(a) Preside at all meetings except as otherwise provided in these bylaws; and

(b) Sign share certificates and telephone debentures, the issue of which shall have been authorized by the Board, and any other instrument or document of the Bank; and

(c) Establish the positions of Deputy Governor, Assistant Governor, Assistant Secretary, and Assistant Treasurer and recommend to the Board for approval those persons to serve in such positions; and establish such other positions as he shall deem necessary, and appoint persons to fill such positions.

SEC. 6.5. *Secretary and Assistant Secretary.* The Secretary, or in his absence or inability to act, the Assistant Secretary, shall be responsible for:

(a) Keeping the minutes of all meetings except as otherwise provided in these bylaws;

(b) Seeing that all notices are duly given in accordance with these bylaws or as required by law;

(c) Safekeeping of the corporate records and affixing the seal of the Bank to all documents, the execution of which on behalf of the Bank under its seal is duly authorized in accordance with the provisions of these bylaws;

(d) Keeping stock records containing names and addresses of all shareholders of the Bank, showing, among other things, the number of shares held by each, and the dates when they became the owners thereof;

(e) Attesting share certificates, and telephone debentures, the issue of which shall have been authorized by the Board;

(f) Keeping on file at all times a complete copy of the bylaws of the Bank containing all amendments thereto and, at the expense of the Bank, furnishing a copy of the bylaws and of all amendments thereto to every shareholder; and

(g) In general performing all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him by the Board.

SEC. 6.6. *Treasurer and Assistant Treasurer.* The Treasurer, or in his absence or inability to act, the Assistant Treasurer, shall be responsible for:

(a) Custody of all funds and securities of the Bank;

(b) The receipt of, and the issuance of receipts for, all monies due and payable to the Bank and for the deposit of all such monies in the name of the Bank in accordance with the provisions of these bylaws;

(c) Signing all checks, drafts, or other orders for the payment of money; and

(d) In general performance of all the duties incident to the office of the Treasurer and such other duties as from time to time may be assigned to him by the Board.

SEC. 6.7. *Bonds.* Officers, employees, or agents of the Bank shall be bonded, at the expense of the Bank, if and to the extent the Governor and the Board shall determine.

SEC. 6.8. *Reports.* The officers of the Bank shall annually submit to the shareholders and to persons with a loan or loan commitment from REA reports covering the business of the Bank. The Board shall also make an annual report to the Secretary of Agriculture, for transmittal to the Congress, on the administration of title IV of the Rural Electrification Act of 1936, as amended, and upon any other matters relating to the effectuation of the policies of said title IV, including recommendations for legislation.

ARTICLE VII—FINANCIAL TRANSACTIONS

SEC. 7.1. *Countersignature of checks, drafts, etc.* Unless otherwise determined by the Governor, all checks, drafts, or other orders for the payment of money shall be countersigned by such person or persons as shall be designated by him.

SEC. 7.2. *Deposits.* All funds except petty cash of the Bank shall be deposited from time to time to the credit of the Bank in accordance with the provisions of 31 U.S.C. 867. If, in accordance with the provisions of such law, the Bank is permitted to choose a depository other than the Treasurer of the United States, the Governor, with the approval of the Board, shall select such other depository or depositories.

SEC. 7.3. *Fiscal year.* The fiscal year of the Bank shall begin on the first day of July of each year and shall end on the 30th day of June of the following year.

ARTICLE VIII—PATRONAGE CAPITAL

SEC. 8.1. *Patronage capital assignable.* "Patronage capital assignable" shall consist of all revenues of the Bank for any fiscal year in excess of the amount thereof necessary to:

(a) Pay expenses of the Bank, including, without limitation, payments in lieu of property taxes as provided in section 401(c) of the Act;

(b) Pay interest on telephone debentures accruing in such fiscal year;

(c) Provide reasonable allowances for depreciation, obsolescence and losses on loans and interest receivable;

(d) Pay to the holder or holders of Class A stock an amount equal to two per centum (2%) per annum of the capital furnished to the Bank for such stock; and

(e) Pay to the holders of Class C stock dividends at the rate determined by the Board: *Provided, however,* That no dividends shall be declared on Class C stock until arrearages, if any, on payments to holders of the cumulative Class A stock have been paid; *And provided, further,* That until all Class A stock shall have been retired, the Board shall not declare any dividends on Class C stock at an annual rate in excess of the then current average rate payable on the Bank's telephone debentures.

SEC. 8.2. *Calculation of patronage refunds.* After the close of each fiscal year, not less than 10 percent (10%) of the patronage capital assignable, the amount to be determined by the Board of Directors, shall be placed in a contingency reserve until such time as this reserve shall equal at least 50 percent (50%) of the outstanding capital stock. This reserve shall be used to offset and liquidate operating and other losses and deficits in a systematic manner as determined by the Board. The balance of the patronage capital assignable (net patronage capital assignable) shall be distributed to each holder of Class B stock as patronage refunds in the form of Class B stock as soon as practicable after the close of each fiscal year. The amount to be distributed to each holder of Class B stock shall be calculated by applying to the amount of interest revenue to the Bank from each holder of Class B stock in the fiscal year the ratio which net patronage capital assignable bears to the Bank's total interest revenue from all holders of Class B stock. If, at any time after all Class A stock has been retired, the Board should determine that the Bank's financial condition will not be impaired thereby, it may establish procedures for the retirement of Class B stock in full or in part or its conversion to Class C stock in addition to the conversion authorized in section 2.2(b) hereof.

ARTICLE IX—MISCELLANEOUS

SEC. 9.1. *Waiver of notice.* Any shareholder or member of the Board may waive in writing any notice of a meeting required to be given by these bylaws, either before or after the time of such

meeting. The attendance of a shareholder or member of the Board at any meeting shall constitute a waiver of notice of such meeting by such shareholder or Board member, unless such attendance shall be for the express purpose of objecting to the transaction of any business on the ground that the meeting has not been lawfully called or convened.

SEC. 9.2. *Policies, rules, and regulations.* The Board shall have power to make and adopt such policies, rules, and regulations, not inconsistent with law or these bylaws, as it may deem advisable for the management of the Bank.

SEC. 9.3. *Accounting system and audit reports.* The Board shall cause to be established and maintained a complete accounting system which, among other things, shall conform to accounting system principles, standards, and procedures applicable to corporate business enterprises. A summary of the report of each audit of the Bank's financial transactions made by the General Accounting Office of the United States shall be mailed to each shareholder promptly after the report shall have been received.

SEC. 9.4. *Seal.* The Board shall adopt a suitable corporate seal, containing the name of the Bank.

SEC. 9.5. *Conduct of meetings.* Meetings of shareholders and directors of the Bank shall be conducted in accordance with the current edition of "Roberts' Rules of Order."

ARTICLE X—AMENDMENTS

These bylaws may be altered or amended by a vote of two-thirds of the entire Board at any regular or special meeting of the Board provided the notice of such meeting shall contain a copy of the proposed amendment or alteration.

Dated: October 20, 1971.

E. C. WEITZELL,
Acting Governor,
Rural Telephone Bank.

[FR Doc.71-15491 Filed 10-22-71;8:49 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. S-564]

DELBERT B. AND JOE E. MILLER

Notice of Loan Application

OCTOBER 18, 1971.

Delbert B. Miller and Joe E. Miller, Waldport, Oreg. 97394, have applied for a loan from the Fisheries Loan Fund to aid in the purchase of a used wood vessel, about 40 feet in length, to engage in the fishery for salmon, albacore, and Dungeness crab.

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.

PHILIP M. ROEDEL,
Director.

[FR Doc.71-15510 Filed 10-22-71;8:51 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. FDC-D-162; NDA No. 12-243 etc.]

E. R. SQUIBB & SONS, INC., ET AL.

Certain Combination Drugs Containing Thiazides and Potassium Chloride, and Thiazides, Potassium Chloride, and Reserpine or Rauwolfia Serpentina

NOTICE WITHDRAWING APPROVAL OF NEW-DRUG APPLICATIONS

In the FEDERAL REGISTER of February 7, 1970 (35 F.R. 2734), a notice of opportunity for hearing was published, announcing that the Commissioner of Food and Drugs proposed to issue an order under the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act withdrawing approval of new-drug applications for combination drugs containg thiazides and potassium chloride; or thiazides, potassium chloride, and reserpine or rauwolfia serpentina.

The notice referred to the order published in the FEDERAL REGISTER of September 19, 1969 (34 F.R. 14596), amending the procedural rules applicable to requests for hearings (21 CFR 130.12, 130.14, 146.1). On January 16, 1970, the Honorable James L. Latchum, Judge of the U.S. District Court for the District of Delaware, filed an opinion holding that the September 19, 1969, regulations were null and void because of the lack of advance notice of proposed rule making and opportunity for interested persons to comment. The Commissioner of Food and Drugs then republished the regulations as a proposal in the FEDERAL REGISTER of February 17, 1970 (35 F.R. 3073). After considering the comments received from all interested persons, a final order was published on May 8, 1970 (35 F.R. 7520), repromulgating the interpretive and procedural regulations.

While this was underway, the Commissioner extended the time (35 F.R. 5834), for interested persons to request a hearing on the proposal to withdraw approval of the drugs here involved, until 30 days after the date of publication in the FEDERAL REGISTER of a final order acting on the procedural and interpretive rules proposed on February 17, 1970.

Counsel for Ciba Pharmaceutical Co., 556 Morris Avenue, Summit, N.J. 07901, indicated by letter of May 22, 1970, the firm's desire to voluntarily request withdrawal of approval of its new-drug application No. 12-228 for the thiazide and potassium chloride preparation Esidrix-K, thus waiving its opportunity for a hearing. A final order withdrawing approval of new-drug applications No. 12-228 was published in the FEDERAL REGISTER of June 30, 1970 (35 F.R. 10608).

Merck Sharpe & Dohme, Division of Merck & Co., Inc., West Point, Pa. 19486, holder of new-drug application No. 12-139 for Hydropres-Ka and new-drug application No. 12-140 for Hydrodiuril-Ka, by letter of October 2, 1969, indicated that the company would not contest an order of the Commissioner withdrawing approval of its new-drug applications. The company has filed no written appearance requesting a hearing.

Eli Lilly & Co., 740 South Alabama Street, Indianapolis, Ind. 46206, holder of new-drug applications for Anhydron K (NDA 13-558) and Anhydron KR (NDA 13-559) filed by letter dated March 5, 1970, a request for a hearing on the proposed withdrawal of its new-drug applications.

E. R. Squibb & Sons, Inc., Georges Road, New Brunswick, N.J. 08903, holder of new-drug applications for Di-Ademil-K (NDA 12-243), Naturetin with K (NDA 12-163), Rautrax (NDA 11-802), Rautrax Improved (NDA 12-244), and Rautrax-N (NDA 12-320), has filed a written appearance requesting a hearing, together with supporting data which it states establishes the existence of genuine and substantial issue of fact.

REASONS FOR WITHDRAWAL OF NEW-DRUG APPROVAL

A. The request for a hearing of Eli Lilly & Co. did not comply with the procedural regulations, which require that the applicant file a full factual analysis of the data upon which it relies. The company failed to identify any efficacy data. The fact that the company may not have received any confirmed reports of small bowel lesions, even if proven, does not create a genuine and substantial issue of fact requiring a hearing. Moreover, the company's letter clearly indicates that the request for a hearing was filed for the sole purpose of preventing interruption of its sales operation until such time as it can delete the potassium chloride constituent of these preparations.

B. Squibb states that there are genuine and substantial issues of fact requiring a hearing, as follows:

1. The Commissioner and the NAS-NRC erroneously concluded (a) that Squibb's preparations are enteric coated, and (b) that serious toxicity in the form

of small bowel lesions has been associated with the use of the Squibb preparations.

2. The reported association between small bowel lesions and enteric coated preparations is not applicable to its products; three tests which Squibb reported established that its preparations, unlike enteric coated preparations, dissolve in the stomach and cannot provide a high concentration of potassium in the small bowel sufficient to cause ulceration; and there is a lower incidence of small bowel ulcers associated with the use of Squibb preparations than with enteric coated preparations.

3. The potassium chloride contained in the Squibb products provides a reliable, convenient source of potassium for prophylactic supplementation that can be augmented by an additional source of potassium in those patients requiring more potassium.

4. Physicians attest that the Squibb preparations have been proven safe and effective for use.

5. Finally, Squibb states that (a) section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) provides Squibb with an unqualified right to a hearing; (b) the May 8, 1970, regulations conditioning the right to a hearing would be valid only if the Commissioner appoints an independent hearing examiner to consider Squibb's request for a hearing; (c) the May 8, 1970, regulations defining the criteria for an adequate and well-controlled study are invalid if they are applied to exclude any investigations upon the basis of which some experts would conclude that a drug is effective; (d) there is no new evidence or new information that Squibb's diuretic potassium chloride preparations are not shown to be safe and effective for use.

The request for a hearing of E. R. Squibb & Sons, Inc., did not comply with the procedural regulations by offering a factual analysis of any sort of any of the data on which the company relies for evidence of effectiveness. Nonetheless, the data submitted have been examined and are inadequate to establish that there is a genuine and substantial factual issue.

Findings and conclusions. On the basis of the Squibb documentation, the Commissioner finds as follows:

I. *Composition of the drugs*. a. Di-Ademil-K contains hydroflumethiazide (25 or 50 mg.) and potassium chloride (625 mg.).

b. Naturetin with K contains bendroflumethiazide (2.5 mg. or 5 mg.) and potassium chloride (500 mg.).

c. Rautrax contains flumethiazide (400 mg.), Rauwolfia serpentina (50 mg.), and potassium chloride (400 mg.).

d. Rautrax Improved contains hydroflumethiazide (25 or 50 mg.), Rauwolfia serpentina (50 mg.), and potassium chloride (625 mg.).

e. Rautrax-N contains bendroflumethiazide (4 mg.), Rauwolfia serpentina (50 mg.), and potassium chloride (400 mg.).

f. Rautrax-N Modified contains bendroflumethiazide (2 mg.), Rauwolfia serpentina (50 mg.), and potassium chloride (400 mg.).

II. *Rationale and claims*. The claimed rationale for these combination drugs is that losses of body potassium resulting from the administration of the thiazide component will be replaced by the potassium chloride component of the drug in amounts sufficient to prevent hypokalemia. Rautrax and Naturetin with K are indicated in the treatment of thiazide-responsive edema of cardiac, renal, or hepatic failure, chronic steroid administration, and for hypertension, but only where development of even a mild degree of hypokalemia might have serious consequences. Rautrax Improved, Rautrax-N, and Rautrax-N Modified are recommended for the treatment of essential hypertension, but only where development of even a mild degree of hypokalemia might have serious consequences. All of these preparations note in their labeling that the recommended dosage may not alone provide sufficient potassium to prevent hypokalemia in chronic diseases.

III. *Medical support for the claims of effectiveness*. a. Squibb offered a list of 28 references in the medical literature to support the claims made for its diuretic-potassium combinations. Included were a number of references which discuss only the thiazide diuretic constituents found in the Squibb products. References discussing preparations containing potassium do not provide substantial evidence to support the claimed advantages of these fixed combination drugs in that the investigations discussed were not designed to show that the addition of a fixed ratio of potassium to the diuretic is effective in preventing hypokalemia. The investigators were evaluating the diuretic effect of the drugs involved and did not purport to conduct investigations designed to compare the effects of the combinations against the diuretic constituent alone and/or the diuretic constituent with individualized potassium supplementations.

Moreover, those investigations upon which statements regarding the efficacy of the fixed combinations of diuretic and potassium were made were not adequate and well controlled.

Cummings et al. administered to two groups of patients Naturetin, Naturetin with K, and a powder containing potassium, the diuretic, and vitamins. J. Amer. Geriat. Soc. 12: 161–169 (1964). Patients were switched from preparation to preparation during the course of therapy. The author does not explain the method of patient selection, diagnostic criteria for the condition treated, or laboratory tests performed. No attempts to minimize bias in assignment to test groups or to assure comparability of pertinent variables such as current medication were made. There is no explanation of the methods of observations and recording of results. No valid conclusions regarding treatment of potassium loss can be drawn from the equivocal results of this study.

Another attempt to compare the effects of the combinations against the diuretic alone was by Moury and Kinlaw. J. Germantown Hosp. 1: 45–51 (1960). The authors compared 12 patients receiving Naturetin to two receiving Naturetin and K and conclude that the combination is effective. Apart from numerous other deficiencies in this study, the patient population is too small for valid inferences. Moreover, the two patients who received no added potassium did not show potassium losses greater than patients receiving the potassium combinations.

b. Squibb points to the well-established fact that long-term use of thiazide diuretics may cause potassium losses that may result in hypokalemia. It acknowledges that such potassium losses are dose related and may necessitate different levels of potassium supplementation. Other factors, such as the inconvenience of separate sources of potassium supplementation whether by food or medicants, the varying degrees of potassium losses suffered by different individuals, and the need to evaluate each patient separately in terms of needed supplementation are given as reasons for the continued marketing of the Squibb diuretic-potassium combinations.

In this respect, Squibb says that its only claim is that the potassium in its combinations is a ready source of supplementation, and it makes no claim that the potassium is effective in the prevention of hypokalemia.

The Squibb labeling claims the potassium component of these drugs plays a prophylactic role against the development of mild hypokalemia. Squibb has not identified any clinical investigations demonstrating that the inclusion of the fixed amount of potassium in these products offers a predictable or significant contribution to the prevention or treatment of any degree of hypokalemia. In the absence of such data, the inclusion of potassium is irrational.

Instead of clinical investigations to establish the validity of its claim, Squibb relies on the causal relationship between administration of thiazide diuretics and hypokalemia. It cites Ford for the proposition that drug induced potassium loss is a reflection of drug dosage, and "that dietary potassium will not spare drug induced potassium loss" which may lead to hypokalemia. Ann. N.Y. Acad. Sci. 88: 809 (1960). A reading of the article reveals that he stated "that supplementary potassium is rarely required if the drugs are properly used and a diet adequate in meat and fruit is consumed." Ann. N.Y. Acad. Sci. 88: 809, at p. 812 (1960).

Squibb apparently realizes that, where needed, the appropriate amount of potassium supplementation can be determined only upon the basis of appropriate laboratory procedures, and that dosages must be individualized for each patient. It states that there are "no specific rules for the amount of potassium to be given" and that losses and needs are variable depending upon "internal influences" upon the body's ability for handling salt and water balance. Squibb is correct in this, and it is because potassium losses and needs are variable, that a fixed dosage of potassium is irrational. These potassium dosages will not be sufficient for

some patients, while for others they will be unnecessary, thus exposing the patients to unwarranted hazards from an unneeded drug.

c. Squibb's affiants, relying on a list of 23 references, state there is substantial evidence and clinical experience to support the claims made for the Squibb combinations. None of these references involved investigations designed to demonstrate that the Squibb combinations provide potassium supplementation adequate to prevent hypokalemia. To the contrary, Lyon and De Graff, upon whom affiants rely, state that three grams of potassium (about 40 meq. of potassium) is the normal prophylactic supplement. Amer. Heart J. 68: 711 (1964). The maximum recommended dosages of Squibb's combinations, employed only for the initial course of therapy, will provide from 16 to 32 meq. of potassium daily. When dosage is decreased after initial therapy, the drugs provide from 5 to 8 meq. The one exception is Naturetin c K which provides up to 52 meq. daily. However, for edema the average daily dose provides one gram of potassium (about 14 meq.), while the maintenance dose may be as low as 500 mg. (about 7 meq.). For hypertension, the potassium delivered for maintenance ranges from approximately 7 meq. to 40 meq. depending upon patient dosage requirements. Thus, Lyon and De Graff observe that "[s]everal thiazide drugs are prepared in combination with potassium salts, but, in general, the amount of potassium in such a combination is inadequate."

The affiants also state that because there is no readily available method known to determine the amount of potassium supplementation necessary for each individual patient, physicians cannot determine how much potassium supplementation a patient requires. They state that supplementation must start at an arbitrarily low level and be increased by other sources if and when it appears necessary.

Physicians can determine the rate of potassium depletion by measuring blood serum levels at periodic intervals, as was done by a number of investigators whose articles Squibb relies upon. If supplementation is required, it can be prescribed. Administration of an arbitrary dosage of potassium in a combination drug, which may be excessive or insufficient, is unwarranted and irrational. As Lyon and De Graff stated:

> Patients receiving large doses of thiazides for hypertension who are not rigidly restricted as to the intake of salt show considerable variations in the responsiveness of their exchange mechanism to sodium depletion. Some of these individuals, after an initial loss of potassium, reach a new potassium equilibrium on an ordinary diet. Patients in this group may not need potassium supplementation, especially since they are not usually receiving digitalis. A drop in serum potassium or symptoms of muscle weakness are indications for the addition of potassium salts to the medical treatment.

IV. *Claims of safety*. a. Squibb states that the Commissioner and the NAS–NRC erroneously concluded that its potassium chloride-diuretic preparations are enteric coated and that serious toxicity has been associated with their use.

The NAS–NRC reports refer variously to "coated" and "enteric coated preparations" and cite as evidence of toxicity certain articles in the medical literature implicating enteric coated preparations. Whether the NAS–NRC concluded that Squibb's products are enteric coated is unclear. It is also immaterial.

After the NAS–NRC reports were received, the agency made its own evaluation of all available information, including Squibb's new-drug applications, which contain reports of adverse reactions associated with the use of the Squibb preparations and data on tablet coating. Accordingly, the Drug Efficacy Implementation Report and Notice of Opportunity for Hearing state that small bowel lesions have been "associated with the administration of potassium chloride preparations and with potassium chloride-diuretic preparations", without regard to the method of tablet coating.

Squibb's adverse reactions reports to the agency show that serious toxicity has been associated with the use of coated potassium preparations. Indeed, in its request for hearing Squibb identifies 29 cases of surgically diagnosed small bowel ulcers associated with the use of the Rautrax products and Naturetin with K. In all, Squibb reported 42 reported cases of abdominal complaints occurring with the use of its potassium chloride-diuretic combinations.

It is reasonable to expect that these figures are low because adverse reactions are grossly underreported, even when recognized to be due to drugs. Experience and studies have shown that the numbers reported are only a small percent of the actual number of adverse reactions which occur. Seidl, L. G., et al.: J.A.M.A. 196: 421 (1966); Seidl, L. G., et al.: Am. J. Publ. H. 55: 1170 (1965); Ogilivie, R. I., et al.: J. Canad. Med. Ass. 97: 1450 (1967); Brit. M.J. Vol. 1, p. 527 (Mar. 1, 1969).

b. Squibb examined the medical literature on the relationship between coated potassium chloride preparations and small bowel lesions. The purpose was to show that its products would not cause these lesions.

One article discussed an experiment in which ingredients of enteric coated diuretic-potassium chloride preparations were separately implanted in the small bowels of the animals. Potassium chloride was the only agent found to produce lesions. The authors concluded that "the release and absorption over a short segment of intestine is the direct cause of these lesions". They stated a "belief that a high concentration of potassium chloride" is necessary. (J.A.M.A. 192(9): 763–768, May 1965). This investigation was not designed to demonstrate the safety of Squibb's preparations and cannot be relied upon as establishing safety.

The other articles merely report on selected cases of small bowel lesions, surveys of hospital records, and previous literature reports. None of these articles discuss investigations conducted to demonstrate safety of use of Squibb's drugs.

c. To demonstrate safety of use of the preparations, Squibb has presented:

(i) An in vitro disintegration test. Six tablets each of Rautrax, Rautrax-N, Rautrax-N Modified, and Naturetin with K when placed in simulated gastric juices disintegrated within 18 to 33 minutes. Eighteen enteric coated preparations were intact after 4 hours.

(ii) A disintegration study in dogs. Each of 17 fasted dogs were given one tablet each of Naturetin with K and an enteric coated preparation. Following either hydration or feeding, the animals were sacrificed and examined in intervals of from 15 minutes to 7.5 hours. Results suggest that Naturetin with K disintegrates in the stomachs of fed dogs between 0.5 and 1.5 hours and in fasted dogs between 1.5 and 3 hours. Enteric coated preparations required between 6 and 7.5 hours for disintegration.

(iii) A disintegration study in eight male volunteers. Four volunteers were given one tablet of Naturetin with K, three received one tablet of Rautrax, and one received a pulverized Rautrax tablet. Gastric juice was aspirated at 15-minute intervals for 60 minutes. Increased concentrations of potassium in gastric juice were detected in six of seven persons given whole tablets.

Squibb states these disintegration studies show that its preparations begin to dissolve in the gastric juices of the stomach. The company reasons that its drugs cannot deliver a high concentration of potassium chloride to a localized area of the small bowel, and thus do not cause small bowel lesions.

These three tests were not designed to demonstrate the safety of use of Squibb's preparations in humans. The in vitro test reflects only that these preparations met manufacturing specifications for plain coated tablets. The dog and human volunteer studies do not show that administration, particularly chronic administration, of these drugs will not cause small bowel lesions. No data on potassium concentrations reaching the small bowel were collected.

Moreover, there is no evidence showing (1) high concentrations of potassium in localized areas of the small intestine to be the only factor associated with development of small bowel lesions, (2) the degree of potassium concentrations which can be tolerated by patients for whom the drug is indicated, (3) how rapidly potassium is absorbed following tablet disintegration, and (4) how long the small bowel can be subjected to particular concentrations of potassium before the development of lesions.

The Commissioner cannot discount reports in which small bowel lesions were associated with use of Squibb's products and accept as proof of safety only the limited testing and theory of causation that Squibb advances. Specially designed chronic toxicity studies are required to demonstrate safety of use.

d. Squibb states that the incidence of small bowel lesions associated with the use of its potassium chloride-diuretic preparations is so rare that, when compared with the incidence of such lesions associated with the use of enteric coated preparations and the reported natural

incidence of such ulcers in patients with the pathology for which the drugs are recommended, the Squibb preparations have been demonstrated to be safe for use.

No data on the natural incidence of small bowel lesions in patients for whom use of the preparations is recommended were filed. Speculation is not an adequate basis on which to premise drug safety.

The data reflects 29 cases of small bowel lesions associated with the use of Squibb's preparations in the 6-year period between September 1963 and June 1969. In this respect, one of the articles relied upon by Squibb is revealing. Watson reported that only 170 cases of simple ulcer of the small intestine had been reported in the world literature, between 1805 and 1963. (Archives of Surgery, 87: 600, 1963). It is not known how many of these cases involved patients for whom diuretic therapy would be indicated.

According to the data upon which Squibb relies, the comparative incidence of reported ulcers was one in three million enteric coated tablets sold to one in every 20 million Squibb tablets. While the data suggests that enteric coated preparations are more unsafe than Squibb preparations, it does not demonstrate the safety of use of the Squibb products.

e. Squibb submitted 29 affidavits, with attached bibliographies, attesting to the safety of its preparations. They may be summarized as follows:

(i) The affidavits state that small bowel lesions have not been reported to be caused by potassium except in enteric coated formulations.

(ii) Available information, including the in vitro test and in vivo study in dogs as well as the natural incidence of small bowel lesions, does not indicate that Squibb's preparations are causally related to any significant incidence of small bowel lesions.

(iii) The safety of these drugs has been established by substantial clinical experience and general usage.

These affidavits do not support a finding of safety. Although the medical literature has ascribed no direct cause and effect relationship between use of non-enteric coated potassium tablets and small bowel lesions, such a relationship has not been excluded by appropriate tests. There have been 29 cases in which small bowel lesions have developed following administration of Squibb preparations. These reports of adverse drug reactions cannot be dismissed without sound scientific evidence exculpating the drugs.

Clinical experience and general usage is not adequate evidence of safety. General usage has yielded at least 29 cases of small bowel lesions, but this cannot be relied upon to quantify the risk. The 20 literature references listed in the bibliography appended to each affidavit are irrelevant.

C. *Legal objections*. Squibb's objections are inadequate and are denied. The Courts in "Upjohn Co. v. Finch," "Pfizer, Inc. v. Richardson," and "Pharmaceutical Manufacturers Association v. Richardson," have upheld application of the regulations and procedures controlling this request for hearing.

Accordingly, the Commissioner concludes that no adequate data demonstrating safety and substantial evidence of effectiveness of these drugs exists and that Merck Sharpe & Dohme, Division of Merck & Co., Inc., Eli Lilly & Co., and E. R. Squibb & Sons, Inc., have failed to show reasonable grounds for evidentiary hearings.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052, as amended, 76 Stat. 781–783, 784, 785; 21 U.S.C. 355), and under authority delegated to the Commissioner (21 CFR 2.120), the requests for evidentiary hearings are denied. Approvals of new-drug applications Nos. 12–139, 12–140, 13–558, 13–559, 12–243, 12–163, 11–802, 12–244, and 12–320 (insofar as 12–230 applies to Rautrax-N and Rautrax-N modified tablets) and all amendments and supplements thereto are withdrawn for combination drugs containing thiazides, potassium chloride, and reserpine or rauwolfia serpentina. This order shall be effective on the date of publication in the FEDERAL REGISTER (10–23–71).

Dated: October 13, 1971.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.71-15468 Filed 10-22-71;8:47 am]

FOOD ADDITIVES

Industry Survey of Production and Use of GRAS Substances

The Commissioner of Food and Drugs is conducting a comprehensive study of individual substances that have been listed in § 121.101 *Substances that are generally recognized as safe* and those that were sanctioned through Food and Drug Administration action, meat inspection action, or poultry products inspection action prior to passage of the food additives amendment of 1958 (Public Law 85–929).

Knowledge of the consumer exposure resulting from use of each of these substances is fundamental to the Commissioner's decision about the toxicity data necessary to support continued safe use of such substances in food. Accordingly, the Commissioner has contracted with the National Academy of Sciences to conduct a comprehensive survey of the production and use of such substance. The Academy will accomplish this survey by providing a questionnaire to all producers, formulators, and users of these substances who can be located through various trade association lists and other sources. The questionnaire provides for identifying and reporting any use of prior sanctioned items to aid in determining whether they are safe under their conditions of use.

There is no intent to overlook anyone who can supply information on the use of these substances. This notice is published for the purpose of announcing this survey and informing the public that the questionnaires were sent out beginning about July 15, 1971. If anyone who wishes to respond has not received a questionnaire within a reasonable time thereafter, he should request a questionnaire from the Subcommittee on GRAS Review, Food Protection Committee, National Academy of Sciences, National Research Council, 2101 Constitution Avenue NW., Washington, D.C. 20418, Attention Mr. Durwood Dodgen.

The Academy will receive and process the information and provide the Commissioner with a summary of the total production of the specific substances and the amounts used in food. Individual responses will be retained by the Academy and not provided to the Food and Drug Administration.

Dated: October 9, 1971.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.71-15459 Filed 10-22-71;8:47 am]

[DESI 8426]

POLYMYXIN B SULFATE WITH PROPYLENE GLYCOL OTIC SOLUTION

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on Aerosporin Otic Solution, containing polymyxin B sulfate, acetic acid, and propylene glycol; Burroughs Wellcome & Co., Inc., 3030 Cornwallis Road, Research Triangle Park, North Carolina 27709 (NDA 60–756).

The Food and Drug Administration concludes that the drug is possibly effective for the prevention of exacerbations or treatment of acute and chronic otitis externa, including "swimmer's ear"; the treatment of otitis media (if the tympanic membrane is perforated); postoperative aural cavities; and otomycosis.

Preparations containing polymycin B sulfate are subject to the antibiotic certification procedures pursuant to section 507 of the Federal Food, Drug, and Cosmetic Act. To allow applicants additional time to obtain and submit data to provide substantial evidence of the effectiveness of the drug in those conditions for which it has been evaluated as possibly effective, batches of preparations containing polymyxin B sulfate and propylene glycol for otic use which bear labeling with these indications will be accepted for release or certification by the Food and Drug Administration for a period of 6 months after publication of this announcement in the FEDERAL REGISTER.

At the end of the 6-month period, any such data will be evaluated and the conclusions published in the FEDERAL REGISTER. If no studies have been undertaken or if the studies do not provide substantial evidence of effectiveness, such drug will no longer be acceptable for release or certification.

To be acceptable for consideration in support of the effectiveness of a drug, any such data must be previously unsubmitted, well organized, and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in § 130.12 (a)(5) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for the approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

A copy of the Academy's report has been furnished to the firm referred to above. Other communications forwarded in response to this announcement should be identified with the reference number DESI 8426, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852:

Supplements (identify with NDA number): Division of Anti-Infective Drug Products (BD-140), Bureau of Drugs.

Requests for the Academy's report: Drug Efficacy Study Information Control (BD-67), Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-60), Bureau of Drugs.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 507, 52 Stat. 1050-51, as amended; 59 Stat. 463, as amended; 21 U.S.C. 352, 357) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: September 30, 1971.

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

[FR Doc.71-15460 Filed 10-22-71;8:47 am]

Office of the Secretary

OFFICE OF EDUCATION

Statement of Organization, Functions and Delegations of Authority

The following statement supersedes all previous material issued in part 6 (Office of Education) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare pertaining to part 6-A, *Mission*, part 6-B, *Organization and Functions.*

2-A. *Mission*. The Office of Education is responsible for providing professional and financial assistance to strengthen education in accordance with Federal laws and reguations.

2-B. *Organization and functions*. The Office of Education is under the supervision and direction of the Commissioner of Education and is comprised of the following organizational components:

OFFICE OF THE COMMISSIONER

The Commissioner manages and directs the affairs of the Office of Education with the aid of staff advisers and assistants, internal advisory groups, and special staff. Advises on education matters for the U.S. Government.

OFFICE OF THE EXECUTIVE DEPUTY COMMISSIONER

The Executive Deputy Commissioner, under the general direction of the Commissioner of Education, has broad delegated responsibility to act for the Commissioner on major aspects of operations. Assumes full responsibility for the duties of the Commissioner during his absence, or inability to act, or if a vacancy occurs in the position of Commissioner.

OFFICE OF SPECIAL CONCERNS

The Office of Special Concerns provides leadership and assistance for agency program components by citing the critical needs of recipients and proposing new directions for current Federal education programs. The Office consists of the Office of Equal Employment Opportunity, responsible for equity in agency hiring and employment, and several advocacy units including: Office of African American Affairs, Office of Spanish Speaking American Affairs, Office of American Indian Affairs, Office of Student and Youth Affairs and the Office of Education Arts and Humanities Program.

OFFICE OF THE DEPUTY COMMISSIONER FOR MANAGEMENT

The Deputy Commissioner for Management formulates policy for, directs, and coordinates the activities of all segments of the Office having to do with program planning and evaluation, administrative management and regional office coordination.

OFFICE OF ADMINISTRATION

The Office of Administration plans, directs, and coordinates the administrative, financial, personnel management, data processing and management information programs of the Office of Education and provides a broad variety of management services.

Budget and Manpower Division. Establishes policies and procedures governing budget preparation, presentation, and execution for the Office of Education. Directs the preparation, presentation, and execution of the OE budget and maintains personnel ceiling controls.

Finance Division. Plans, develops, and executes an integrated system of financial policy, procedure, and standards for operations. Operates a central system of transaction accounting, reporting, and certification of the availability of funds.

Personnel and Training Division. Provides personnel management policy and procedure and interpretation of Civil Service Commission and departmental personnel standards for all elements of the Office of Education. Services rendered include: Position classification; employment and placement screening and referral; employee relations and services; personnel action processing and records maintenance; and employee development and training.

General Services Division. Performs administrative services in areas such as mail, procurement, property, supply, space, and equipment, and printing management, internal to the Office of Education.

Contracts and Grants Division. Provides contract management policy and procedure and directs the negotiation and administration of contracts and grants awarded by all components of the Office of Education. Inventories, maintains accountability, and manages utilization of Government property held by contractors/grantees.

Management Evaluation Division. Plans and conducts management surveys and studies of Office of Education activities. Designs and implements continuing OE management systems, such as issuance management; organizational planning and staffing requirements; delegations of authority; the employee suggestion awards system; correspondence and records management; and the management improvement program. Directs the audit coordination function within OE; investigates and responds to audit inquiries and reports.

Systems Planning and Control Division. Identifies, analyzes requirements for, and secures approval of manual and automated information subsystems of established office components leading toward an effective and efficiently integrated total management information system. Regularly reports and formally presents management information to decisionmaking officials of OE.

Automatic Data Processing Division. Provides all ADP systems analysis, programing services, and computer operations support for the Office of Education and its bureaus and staff offices.

OFFICE OF REGIONAL OFFICE COORDINATION

The Office of Regional Office Coordination coordinates the regionalization of OE programs and serves as an arm of the Commissioner in the administration of regional offices. It provides administrative supervision, direction, and coordination of the field organization, insures adherence to general OE policy, coordinates headquarters and field activities and overall management of field resources through the 10 regional commissioners. Maintains an overview of regional operations and brings to the attention of appropriate bureau or staff office heads those problems affecting the latter's program operations. Administers the Office of Education Model Cities program. Participates on a continuing basis with the heads of bureaus and staff offices in evaluating the overall progress and effectiveness of regional operations and administration.

OFFICE OF PROGRAM PLANNING AND EVALUATION

The Office of Program Planning and Evaluation plans and evaluates overall Office programs and provides guidance

and coordination for bureau and staff office program planning and evaluation. Prepares special studies necessary for the planning of educational policies and provides advice on formulation of Office policies, legislative proposals, and types of information to be collected to evaluate the effect of Federal programs:

Division of Elementary and Secondary Programs. In connection with those Office programs dealing with the elementary and secondary level of education, provides planning and programing support for Office, staff office, and bureau missions. Administers programing phases of the Office planning-programing-budgeting system, and assists Bureau and staff offices in developing their parts of the Office 5-year program and financial plan.

Division of Post-Secondary and Special Education Programs. Provides planning and programing support for Office, staff office, and bureau missions in connection with those Office programs dealing with the postsecondary level of education and with special education. Administers programing phases of the Office planning-programing-budgeting system, and assists bureau and staff offices in developing their parts of the Office 5-year program and financial plan.

Division of Program Support. Provides in-depth technical aid to the planning and evaluation activities of the Division of Elementary and Secondary Programs and the Division of Postsecondary and Special Education Programs and, as required, to the planning and evaluation activities of bureaus and staff offices. Designs and develops analytic models in support of planning and evaluation functions. Consults on and takes a leading part in the development and formulation of program evaluation systems.

Office of the Deputy Commissioner for External Relations

The Deputy Commissioner for External Relations formulates policy for, directs and coordinates the activities of all segments of the Office having to do with the interrelation of operations with Congress, other governmental agencies, State and local governmental agencies, and the public; including activities of the Federal Interagency Committee on Education.

Office of Legislation

The Office of Legislation plans and prepares the specifications for new legislation necessary to carry out the functions of and the objectives proposed for the Office of Education; coordinates the preparation of congressional and other reports on bills relating to education; provides the Office with information regarding the content, status and progress of legislation affecting education, and coordinates suggestions for new legislation received from within the Office. Responsible for controlling and coordinating congressional correspondence and other congressional contacts of the Office, except for appropriations matters.

Office of Public Affairs

The Office of Public Affairs plans, develops, and directs comprehensive public information activities, reports, and editorial services in support of Office of Education programs. Represents the Office in the area of public information in relationship with the Department and other Federal agencies. Maintains liaison with the news media and the general public. Plans, develops, and edits the official journal of the Office, "American Education."

Media Services Division. Serves as the central channel through which education news and information is disseminated both to the public and to officials in the Office and the Department. Releases news and feature material to all media; arranges press conferences for the Commissioner and other Office officials; and answers or coordinates answers to inquiries and requests for assistance from the various media.

Editorial Services Division. Assists in planning and carrying out special presentations by arranging and conducting seminars and briefing sessions. Provides a wide variety of editorial services; writing, rewriting or editing statements, position papers, reference articles, speeches, pamphlets, booklets, memoranda, notifications, and other materials about Office programs, for internal use or for public distribution. Acts as project manager for various contracted programs to inform the public.

Publications Division. Provides professional services and counsel for manuscripts and technical reports. Serves as the clearance office for speeches, articles, and other public information materials prepared within the OE for public presentation as well as all manuscripts prepared in OE for publication via GPO. Though its Public Inquiries Branch meets the OE responsibility under the Freedom of Information Act.

Bureau Services Division. Provides advice and assistance in matters dealing with public relations activities as applicable to bureau and staff office programs. Provides liaison and consultative services to bureaus and staff offices and to the public with respect to Federal programs which are the responsibility of the bureaus and staff offices.

Office of Federal-State Relations

The Office of Federal-State Relations serves as chief adviser to the Commissioner and Deputy Commissioners on Federal-State relations and provides stimulus for and integration of all Office programs aimed at improving the leadership services of State educational agencies.

Office of the Deputy Commissioner for School Systems

The Deputy Commissioner for School Systems, formulates policy for, directs, and coordinates the activities of, the elements of the Office which deal with State and local education agencies on preschool, elementary, secondary, and postsecondary vocational technical education matters.

Bureau of Elementary and Secondary Education

The Bureau of Elementary and Secondary Education is responsible for administration of programs of grants to State educational agencies, as well as other State agencies having education responsibilities, grants to local educational agencies, and other institutions and agencies concerned with elementary and secondary education, and the monitoring of accomplishments under these programs.

Division of Compensatory Education. Administers a program providing payment to State agencies under title I of the Elementary and Secondary Education Act for the education of educationally deprived children in low-income areas, and for institutionalized neglected and delinquent, migrant and Indian children. Also manages the Follow-through program (grades K through 3) through grants to local educational agencies.

Division of State Agency Cooperation. Makes grants to States pursuant to approved applications setting forth programs designed to strengthen the leadership resources of State education agencies. Administers programs to improve instruction in crucial academic subjects and the arts and humanities, and to acquire school library resources, textbooks, and other instructional materials.

Division of Plans and Supplementary Centers. Administers a variety of programs under the Elementary and Secondary Education Act aimed at improving the quality of American education and enriching the educational opportunities and curriculum for all children. Programs include Supplementary Centers and Services; Guidance, Counseling, and Testing, Bilingual Education, and Dropout Prevention Programs.

Division of School Assistance in Federally Affected Areas. Provides grants to local educational agencies for construction, maintenance, and operation of schools in areas affected by Federal activities, and by disasters, and for the operation of special educational programs for Cuban refugees.

Division of Equal Educational Opportunities. Provides technical assistance, special training for educational personnel and coordinates relevant Federal programs to help schools fully desegregate. Directs a program of grants to school boards for inservice programs and advisory specialists, sponsorship of short-term and regular-session institutes dealing with desegregation problems, and emergency assistance to desegregating local educational agencies.

Bureau of Education for the Handicapped

The Bureau of Education for the Handicapped assists States, colleges, and universities, and other institutions and agencies in meeting the educational

needs of the Nation's handicapped children and youth who require special services:

Division of Research. Responsible for development and expansion of leadership activities and resources to provide improved direction and education for handicapped children. Determines new avenues for exploration in a constant search for better educational approaches for the handicapped.

Division of Training Programs. Responsible for implementing programs concerned primarily with training educational personnel to work with the handicapped. Provides leadership to various education agencies or other groups designed to stimulate the implementation and improvement of relevant training programs.

Division of Educational Services. Coordinates the implementation of Office of Education programs designed to provide direct or indirect services to the handicapped by providing leadership to educational agencies and other groups in stimulating the extension and improvement of educational services to handicapped persons. Operates a program for development of instructional media for the handicapped.

BUREAU OF ADULT, VOCATIONAL, AND TECHNICAL EDUCATION

The Bureau of Adult, Vocational, and Technical Education administers programs of grants for vocational and technical education, education programs for adults, manpower training programs, and contracts with States for the conduct of educational programs in civil defense.

Division of Manpower Development and Training. Administers the program functions for institutional training and retraining programs for occupations designated for referrals from the Secretary of Labor to include basic educational, prevocational, vocational, and technical education, communications, and employability skills, including special programs for disadvantaged youth and adults, training in correctional institutions, and national educational and training programs to meet critical skills shortages.

Division of Adult Education Programs. Contracts with States for the conduct of education programs in civil defense; administers programs of grants for adult education to States and other public and private nonprofit organizations and institutions.

Division of Vocational and Technical Education. Provides national leadership to vocational and technical education in responding to technological advances, occupational changes and employment opportunities, population growth and other related socioeconomic changes. Develops and provides policies, planning, technical advice, and assistance, and evaluative services to effect balanced and coordinated programs of vocational and technical education responsive to the educational and occupational needs of all citizens.

OFFICE OF THE DEPUTY COMMISSIONER FOR DEVELOPMENT

The Deputy Commissioner for Development provides policy, direction, and coordination for organizational segments responsible for programs of educational research, communication, experimentation, statistics, and educational personnel development. Insures compliance with the Federal Reports Act, administers the OE forms management program and serves as the clearance point for all OE public use forms. Administers the Office of Education Right to Read Program, Project Trend, the Environmental/Ecological Education Program and the Nutrition and Health Program.

NATIONAL CENTER FOR EDUCATIONAL RESEARCH AND DEVELOPMENT

To improve education by conducting a research and development program which contributes to the solution of major educational problems; increases knowledge of the educational process; improves the state of education practice; develops and assesses new educational alternatives and increases the Nation's research capability in the field of education.

Division of Research. Provides functional support for unsolicited basic research projects; monitors large-scale applied research projects of special interest; provides general supervision of a decentralized research program coordinated through the 10 DHEW/OE regional offices and maintains continuing liaison with the larger scientific and educational communities and with other DHEW and Federal funding agencies.

Division of Development. Administers a directed development program designed to solve major educational problems of national significance. Programs are formulated by the staff of the Division in collaboration with outside specialists. Program plans are executed by development organizations outside the Government under constant monitoring by division personnel. Develops and implements assessment procedures designed to insure that program objectives are reached.

Division of Research and Development Resources. Administers a comprehensive program designed to strengthen the institutional and manpower resource base for educational research and development in keeping with OE priorities through the following program components: Educational Laboratory Program; Educational Research Center Program; National Program on Early Childhood Education, Research Facilities Program and Research Training Program. Responsible for evaluation of two Policy Research Centers. Responsible for provision of facilities and equipment support to laboratories, centers, and other educational research and development institutions.

NATIONAL CENTER FOR EDUCATIONAL COMMUNICATION

The National Center for Educational Communication provides a locus of responsibility for planning and coordinating educational information dissemination activities and services in the Office. Emphasis is placed upon accelerating the spread of exemplary practices and products, strengthening the dissemination and installation capabilities of State and local education agencies, and developing a Federal-State-local network for application of information.

Division of Practice Improvement. Responsible for programs designed to accelerate use of tested educational improvements by the Nation's schools. Develops the network of Federal, State, and local organizations needed to disseminate and apply research and development based improvements in the classroom. Develops and distributes a wide variety of information products to inform educators of new practices.

Division of Information Resources. Responsible for development of a comprehensive, national information system designed to insure access to all significant educational literature. Assists in development of a nationwide computerized network to disseminate educational information. Operates the Educational Materials Center to display recent educational publications. Provides search, reference, and consultation services.

EXPERIMENTAL SCHOOLS PROGRAM STAFF

The staff of the Experimental Schools initiates, organizes, plans, investigates, generates, administers, and evaluates 5-year research projects that test comprehensive approaches to educational reform; seeks the development of comprehensive projects that reshape, redefine, and revise current educational structures, purposes, methods, practices, and performance; provides a focus on critical educational issues of national significance; and provides assistance and a coordination of efforts with other programs of the Office and programs of other Federal agencies and organizations.

NATIONAL CENTER FOR EDUCATIONAL STATISTICS

The National Center for Educational Statistics designs, directs, coordinates, and executes all statistical programs of the Office. Gathers, stores, analyzes, and disseminates statistical data and analytical studies to show the condition and progress of American education.

Division of Survey Operations. Provides operational support for statistical surveys conducted by the Center. Develops sampling procedures, and provides statistical consultative services for the entire Office. Validates data and provides Center liaison with the data processing division.

Division of Survey Planning and Analysis. Conducts general and special statistical surveys in the fields of higher, elementary-secondary, and adult-vocational education, libraries, museums, and educational technology. Plans and designs data collection instruments, and collects analyzes and publishes general educational data. Provides survey advice

and consultation on educational statistics as requested by other agencies.

Division of Statistical Information and Studies. Provides statistical research and reference services. Performs both special and in-depth analyses of statistical data addressed to basic education questions. Examines the planning, operational, and research needs of users of educational statistics to assist in obtaining the most relevant and reliable data possible. Develops standardized terminology and definitions to promote reporting of nationally compatible educational statistics.

BUREAU OF EDUCATIONAL PERSONNEL DEVELOPMENT

The Bureau of Educational Personnel Development administers programs to improve the quality of teaching and to help meet critical shortages of adequately trained educational personnel, provides professional advice and assistance to educators in the development of training programs for the education profession, and administers a program to attract qualified persons to the field of education:

Division of Assessment and Coordination. Undertakes continuous quantitative and qualitative assessment of actual educational manpower needs, both present and long range; develops general plans to meet these needs, which are included in the annual report to the Commissioner. Coordinates other programs that contribute to development of educational manpower.

Division of Program Resources. Provides expert consultant service to the Office of Education, States, local educational activities, and institutions of higher education on development of more meaningful education personnel training programs, including those of an innovative nature and programs for the disadvantaged. Administering grant programs which deal with: vocational personnel; teachers in desegregating schools; school personnel utilization; ecological educators; drug abuse; and volunteer programs.

Division of School Programs. Administers grant programs under the Education Professions Development Act which deal with: Attracting a greater variety of people to teaching with the Career Opportunity Program; administration of Urban/Rural School Development Program; preparation of teachers for early childhood education, special education.

Division of College Programs. Administers grant programs under the Education Professions Development Act which deal with: Training of teacher trainees; teacher leadership development; educational complexes; bilingual education; protocol and training materials; training of school administrators; and training of educational support personnel, such as guidance and counseling or media specialists.

Teacher Corps. Administers programs concerned with strengthening the educational opportunities available to children in areas having concentrations of low-income families. Encourages colleges and universities to broaden their programs of teacher education by entering into arrangements with other institutions of higher education, State and local education agencies for recruitment and training of Teacher Corps teams (comprised of experienced teachers and teacher interns) for teaching in such areas.

OFFICE OF THE DEPUTY COMMISSIONER FOR HIGHER EDUCATION

The Deputy Commissioner for Higher Education formulates policy for, directs, and coordinates the activities of, the elements of the Office which deal with programs for assistance to institutions of higher education, to students, to libraries, and to international education:

BUREAU OF HIGHER EDUCATION

The Bureau of Higher Education administers programs of financial support to aid in improving the quality of American higher education, in broadening higher education opportunities for qualified individuals, in preparing deprived youth for entry into postsecondary education, and to State agencies for, community service and continuing education programs. Provides services to units in the Office regarding all aspects of accreditation and determination of the eligibility of institutions of higher education and vocational schools to participate in Federal programs. Publishes directories of accredited and eligible institutions:

Division of Student Assistance. Administers programs to identify low-income students, prepare them for postsecondary education, and provide special services to those students while attending postsecondary institutions. Administers programs which provide for financial assistance in the form of grants, loans and compensation for employment to needy students to enable them to undertake postsecondary education.

Division of Insured Loans. Administers a program of low interest long-term insured loans for college and vocational students under which loans made by commercial and other lenders to such students are insured (or reinsured) by the Federal Government and insured by State and nonprofit private agencies. Provides for payments to reduce interest costs to student borrowers and for the payment of special incentive allowances to lenders.

Division of College Support. Administers a program of grants to strengthen developing institutions through cooperative arrangements, national teaching fellowships, and the training of higher educational personnel by means of institutes and other short-term training programs. Conducts the Land Grant College programs.

Division of University Programs. Administers a program of financial support of institutions of higher education for establishing and improving graduate schools and cooperative graduate centers and for supporting graduate study fellowships to students. Administers a program for developing community service and continuing education. Analyzes and interprets general trends in graduate education and relates these to Division programs. Plans and conducts studies and surveys of graduate and continuing education and publishes reports on them. Prepares background statistical and other information useful in administering both OE and institutional graduate programs.

Division of Academic Facilities. Administers a program of grants and loans for the construction of academic facilities and for comprehensive facilities planning. Conducts a program of grants for the improvement of higher education instruction through the use of instructional aid equipment and closed-circuit television.

INSTITUTE OF INTERNATIONAL STUDIES

The Institute of International Studies establishes policies for and coordinates and administers the Office's international programs and activities which stimulate and support American educational resources and capabilities in international studies, research, training, and service. It also serves as a resource to the Commissioner in establishing OE policies for international education and works with other bureaus in expanding and improving the international dimension in their programs. The Institute administers the comparative education program which deals with studies of education in other countries, recruits American educators for service with international organizations, coordinates activities of OE staff with respect to U.S. policy and position papers regarding educational programs of international organizations, and provides a focal point of contact in OE for persons and organizations having an interest in international education.

Division of Foreign Studies. Administers programs providing funds to American colleges and universities to support the establishment and operation of foreign language and area centers, and research in foreign language and area studies; administers fellowships programs for advanced foreign language and area studies in the United States and abroad; provides support for group research and study projects abroad and for foreign curriculum specialists serving with American educational agencies in program planning.

Division of International Exchange and Training. In cooperation with the Bureau of Educational and Cultural Affairs and the Agency for International Development of the Department of State, administers teacher exchange programs and summer seminars abroad for American teachers, the international teacher development program to assist foreign educators; and the technical assistance training program for teachers and school administrators from the developing countries. Assists foreign educators who come to the United States to study and observe American education by arranging appointments, study programs, and itineraries.

International Services and Research Staff. Provides recruitment services for

UNESCO's field program in education. Serves as coordinating center in OE in the development of U.S. policy and position papers with respect to U.S. participation as a member state in international organizations. Conducts and contracts for research on foreign education systems, and for comparative and cross-cultural studies of various aspects and levels of education. Provides advisory interpretations of foreign academic credentials.

BUREAU OF LIBRARIES AND EDUCATIONAL TECHNOLOGY

The Bureau of Libraries and Educational Technology provides national leadership in libraries and educational technology and administers programs to support States in improving public library services and library construction; to institutions of higher education to strengthen library resources, and assist in training in librarianship and acquisition of equipment; to educational institutions and other agencies to support training in media technology and research in libraries information science and technology. Administers programs of financial support for educational television and radio broadcasting and supports demonstrations in application of educational technology to education.

Division of Library Programs. Administers programs of financial assistance to States for extension of public library services, promoting interlibrary cooperation and assisting in public library construction; to institutions of higher education to strengthen library resources and assist in training of library personnel; and to eligible applicants to support research in libraries, information sciences, and educational technology.

Division of Educational Technology. Administers programs of financial support for the acquisition or upgrading of educational television or educational radio facilities; to assist institutions of higher education in the acquisition of audiovisual and related equipment; to assist educational agencies in training media and technology specialists; and to support demonstrations in application of technology to education and instructional development.

2-F Order of Succession. During the absence or disability of the Commissioner of Education, or in the event of a vacancy in that position, the first official listed below who is available shall act as Commissioner, except during a period of planned absence for which a different order has been designated under (b) below:

(a) (1) Executive Deputy Commissioner;

(2) Deputy Commissioners in order of the seniority of their appointments as Deputy Commissioners or, in the event of concurrent appointments, in order of the seniority of their appointments to the Office of Education;

(b) For a planned period of absence, the Commissioner may specify a different order of succession.

Dated: October 13, 1971.

STEVEN D. KOHLERT,
Acting Deputy Assistant Secretary for Management.

[FR Doc.71-15478 Filed 10-22-71;8:48 am]

CIVIL SERVICE COMMISSION

Bureau of Intergovernmental Personnel Programs

GRANT APPLICATIONS

Notice of Cutoff Date for Fiscal Year 1972

Notice is hereby given that the first cutoff date for grant applications submitted pursuant to section 506(a) of the Intergovernmental Personnel Act of 1970 (sec. 506, 84 Stat. 1927) is December 15, 1971.

All grant applications must be received on or before December 15, 1971. Regional Offices of the Civil Service Commission may, however, establish a later date for particular States or particular applicants within their region based on a determination that this would better meet the needs of the State and local jurisdiction involved or the management of the grant program within the region. Such determinations will be published in the FEDERAL REGISTER.

A substantial proportion of the available fiscal year 1972 section 506(a) funds will be retained for a later second-round consideration of applications, the specific second cutoff date to be announced later.

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

[FR Doc.71-15613 Filed 10-22-71;10:06 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19216]

WESTERN UNION INTERNATIONAL, INC.

Order Extending Time

In the matter of Western Union International, Inc. Proposed revisions of its tariff FCC No. 4, establishing regulations covering the calculation of charges for leased facility service which commences on any day other than the first day of a month or terminates on any day other than the last day of the month; Docket No. 19216.

Good cause having been shown, and all parties consenting, *It is ordered*, That the motion of Western Union, International, Inc., for the postponement of the filing of proposed findings from October 15, 1971, to October 20, 1971, and the filing of replies from October 27, 1971, to November 1, 1971, is granted.

Adopted: October 15, 1971.

Released: October 18, 1971.

FEDERAL COMMUNICATIONS COMMISSION,
ASHER H. ENDE,
Acting Chief, Common Carrier Bureau.

[FR Doc.71-15506 Filed 10-22-71;8:51 am]

FEDERAL MARITIME COMMISSION

CALIFORNIA/JAPAN COTTON POOL

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

W. C. Galloway, Chairman, California/Japan Cotton Pool, 635 Sacramento Street, San Francisco, CA 94111.

Agreement No. 8882-9 is an agreement between the American and Japanese flag carriers of the California/Japan Cotton Pool, whereby the obligation to arrive at a financial settlement on July 31, 1972, is waived because the Export-Import Bank loan shipments of cotton from California to Japan for the current

1971/1972 season will move exclusively on American-flag vessels.

Agreement No. 8882 is not to be suspended altogether since it is expected that the pool members will hold periodic meetings to determine the future of EIB cotton from California to Japan.

Dated: October 20, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-15498 Filed 10-22-71;8:50 am]

PORT OF OAKLAND AND SEATRAIN TERMINALS OF CALIFORNIA, INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. J. Kerwin Rooney, Port Attorney, Port of Oakland, 66 Jack London Square, Post Office Box 2064, Oakland, CA 94607.

Agreement No. T-2479-2, between the Port of Oakland (Port) and Seatrain Terminals of California, Inc. (Seatrain), modifies the original agreement which provides for the sale by the Port to Seatrain of certain land, buildings, improvements, and equipment. The purpose of the modification is to allow the purchase by Seatrain of certain cranes and spreaders prior to the completion of their final painting.

Dated: October 20, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-15499 Filed 10-22-71;8:50 am]

TRANSPORTACION MARITIMA MEXICANA, S.A. AND COMPANIA TRANSANTLANTICA ESPANOLA

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such agreement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

T. H. Schroeder, Vice President—Traffic, Smith & Johnson (Shipping) Inc., Eleven Broadway, New York, NY 10004.

Agreement No. 9930-1, which first appeared in the FEDERAL REGISTER on August 6, 1971, has been refiled to (1) further expand the geographic scope of the basic agreement to include service inbound from Santo Domingo, Dominican Republic, to U.S. Gulf and South Atlantic ports and outbound from the U.S. South Atlantic and (2) define specifically the destination areas in Spain and the Western Mediterranean already included.

Dated: October 20, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-15500 Filed 10-22-71;8:50 am]

FEDERAL POWER COMMISSION

[Docket No. CS71-247, etc.]

LESS HUTT ET AL.

Findings and Order

OCTOBER 12, 1971.

Findings and order after statutory hearing issuing small producer certificates of public convenience and necessity, terminating certificates, canceling FPC gas rate schedules, terminating rate proceedings, dismissing applications, making successor co-respondent, substituting respondent and redesignating proceedings.

Each applicant herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for small producer certificates of public convenience and necessity authorizing sales of natural gas in interstate commerce, all as more fully set forth in the applications and the appendix hereto.

Certain applicants are presently authorized to sell natural gas pursuant to FPC gas rate schedules on file with the Commission. The temporary and permanent certificates authorizing said sales will be terminated and the related rate schedules will be canceled. Some sales made pursuant to the certificates terminated herein and the canceled FPC gas rate schedules were made at rates in effect subject to refund. There are other rate increases which are suspended. Certain proceedings in which these increased rates are suspended or have been collected subject to refund by any of these applicants and were equal to or below area ceiling rates will be terminated.

Alamo Petroleum Co., applicant in Docket No. CS71-361, proposes to continue the sales of natural gas heretofore authorized in Docket Nos. CI67-1440 and CI71-177 to be made pursuant to Birthright Oil Co. FPC Gas Rate Schedule Nos. 1 and 2, respectively. The rates at the time of the assignment were effective subject to refund in Docket Nos. RI71-537 and RI71-681. Therefore, applicant will be made corespondent in said proceedings and the proceedings will be redesignated accordingly.

Summit Energy, Inc., applicant in Docket No. CS71-414, proposes to continue in toto, the sales of natural gas heretofore authorized in Docket Nos. G-11176, G-11385, G-11389, G-11595, G-14550, G-14797, G-16159, CI61-273, CI65-385, and CI70-247 to be made pursuant to Western Oil Field, Inc. FPC Gas Rate Schedule Nos. 2, 4, 5, 3, 8, 1, 9, 11 12, and 13, respectively. The rates at the time of the assignments were effective subject to refund in RI63-459 for sales under Western's FPC Gas Rate Schedule No. 1, and in Docket Nos. RI64-48 and RI68-284 for sales under Western's FPC Gas Rate Schedule No. 9. Therefore, applicant will be substituted in lieu of Western Oil

Field, Inc. as respondent in said proceedings and the proceedings will be redesignated accordingly.

The Commission's staff has reviewed the applications and recommends each action ordered as consistent with all substantive Commission policies and required by the public convenience and necessity.

After due notice by publication in the FEDERAL REGISTER, no petition to intervene, notice of intervention or protest to the granting of the applications was filed.

At a hearing held on September 30, 1971, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission finds:

(1) Each applicant is or will be engaged in the sale of natural gas in interstate commerce for resale for ultimate public consumption subject to the jurisdiction of the Commission and is, therefore, a "natural gas company" or will be when the initial delivery is made, within the meaning of the Natural Gas Act.

(2) The sales of natural gas hereinbefore described, as more fully described in the applications herein, will be made in interstate commerce subject to the jurisdiction of the Commission, and such sales by applicants are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(3) Applicants are able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules, and regulations of the Commission thereunder.

(4) Each applicant is an independent producer of natural gas which is not affiliated with a natural gas pipeline company and whose total jurisdictional sales on a nationwide basis, together with sales of affiliated producers, were not in excess of 10,000,000 Mcf at 14.65 p.s.i.a. during the preceding calendar year.

(5) The sales of natural gas by applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are required by the public convenience and necessity, and small producer certificates of public convenience and necessity therefore should be issued as hereinafter ordered and conditioned.

(6) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the temporary and permanent certificates of public convenience and necessity heretofore issued to applicants should be terminated and that the related FPC gas rate schedules should be canceled.

(7) It is necessary and appropriate in carrying out the provision of the Natural Gas Act that Alamo Petroleum Co. should be made corespondent in the proceedings pending in Docket Nos. RI71-537 and RI71-681 and that said proceedings should be redesignated accordingly.

(8) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Summit Energy, Inc. should be substituted in lieu of Western Oil Fields, Inc. as respondent in the proceedings pending in Docket Nos. RI63-459, RI64-48, and RI68-284 and that the proceedings should be redesignated accordingly.

(9) The applications pending in the following dockets numbers are moot:

G-13948	CI68-307	CI71-64
CI60-614	CI68-692	CI71-177
CI63-299	CI68-1391	CI71-319
CI64-41	CI69-468	CI71-322
CI65-838	CI69-768	CI71-323
CI66-405	CI69-859	CI71-445
CI66-406	CI69-986	CI71-459
CI67-975	CI69-1243	CI71-617
CI67-1363	CI70-386	CI71-650
CI67-1440	CI70-423	CI71-681
CI67-1692	CI70-741	

The Commission orders:

(A) Small producer certificates of public convenience and necessity are issued upon the terms and conditions of this order authorizing the sale for resale and delivery of natural gas in interstate commerce by applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, all as hereinbefore described and as more fully described in the applications in this proceeding.

(B) The certificates granted in paragraph (A) above are not transferable and shall be effective only so long as applicants continue the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations, and orders of the Commission and particularly:

(1) The subject certificates shall be applicable only to all small producer sales as defined in § 157.40(a)(3) of the regulations under the Natural Gas Act; and

(2) Applicants shall file annual statements pursuant to § 154.104 of the regulations under the Natural Gas Act.

(C) The certificates granted in paragraph (A) above shall remain in effect for small producer sales until the Commission on its own motion or on application terminates said certificates because applicants no longer qualify as small producers or fail to comply with the requirements of the Natural Gas Act, the regulations thereunder, or the terms of the certificates. Upon such termination, applicants will be required to file separate certificate applications and individual rate schedules for future sales. To the extent compliance with the terms of this order is observed, the small producer certificates will still be effective as to sales already included thereunder.

(D) The grant of the certificates in paragraph (A) above shall not be construed as a waiver of the requirements of section 7 of the Natural Gas Act or Part 157 of the regulations thereunder and is without prejudice to any findings or orders which have been or may hereafter be made by the Commission in any proceedings now pending or hereafter instituted by or against applicants. Further, our action in this proceeding shall not foreclose any future proceedings or objections relating to the operation of any price or related provisions in the gas purchase contracts herein involved. The grant of the certificates aforesaid for service to the particular customers involved, shall not imply approval of all of the terms of the contracts, particularly as to the cessation of service upon the termination of said contracts as provided by section 7(b) of the Natural Gas Act. The grant of the certificates aforesaid shall not be construed to preclude the imposition of any sanctions pursuant to the provisions of the Natural Gas Act for the unauthorized commencement of any sales subject to said certificates.

(E) The temporary and permanent certificates heretofore issued to applicants for sales proposed to be continued under small producer certificates are terminated and the related FPC gas rate schedules are canceled as indicated in the appendix hereto.

(F) The proceedings in which applicants' increased rates have not been made effective and certain proceedings in which increased rates have been made effective subject to refund and are equal to or below the applicable area base rate are terminated as indicated in the appendix hereto.

(G) Alamo Petroleum Co. is made a corespondent in the proceedings pending in Dockets Nos. RI71-537 and RI71-681, and said proceedings are redesignated accordingly.

(H) Summit Energy, Inc. is substituted in lieu of Western Oil Fields, Inc. as respondent in the proceedings pending in Dockets Nos. RI63-459, RI64-48, and RI68-284, and said proceedings are redesignated accordingly.

(I) The applications pending in the following dockets numbers are dismissed:

G-13948	CI68-307	CI71-64
CI60-614	CI68-692	CI71-177
CI63-299	CI68-1391	CI71-319
CI64-41	CI69-468	CI71-322
CI65-838	CI69-768	CI71-323
CI66-405	CI69-859	CI71-445
CI66-406	CI69-986	CI71-459
CI67-975	CI69-1243	CI71-617
CI67-1363	CI70-386	CI71-650
CI67-1440	CI70-423	CI71-681
CI67-1692	CI70-741	

(J) This order does not relieve any of the applicants herein of any responsibility imposed by, and is expressly subject to, the Commission's statement of policy implementing the Economic Stabilization Act of 1970 (Public Law 91-379, 84 Stat. 799, as amended by Public Law 92-15, 85 Stat. 38), including such amendments as the Commission may require, and Executive Order No. 11615.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

APPENDIX

Docket No. and filing date	Applicant	Canceled FPC gas rate schedule	Terminated certificate docket No.	Terminated rate increase docket No.
CS71-247 3-25-71	Less Hutt, d.b.a. H & J Drilling Co.			
CS71-248 3-26-71	Hankins & Co.	1	G-12184	RI65-406.
	do	2	G-15204	
	do	3	G-17867	
	do	5	CI61-306	
	do	6	CI61-1320	
	do	7	CI61-1330	
CS71-254 3-29-71	Inexco Oil Co.	3	CI70-597	
	do	4	CI70-716	
	do	5	CI70-783	
	do	7	CI71-459 [1]	
CS71-262 4-5-71	Venus Oil Co.			
CS71-268 4-7-71	Manler Oil Co.	1	CI63-371	RI71-5.
CS71-269 4-7-71	Joseph P. Mueller	1	CI61-1673	
CS71-273 4-9-71	Chas. A. Daubert (Operator) et al.	1		
	do	2	G-9273	
	do	4	G-4615	
	do	6	G-11690	
	do	7	G-11761	
	do	8	G-16581	
CS71-278 4-14-71	Carl A. Nilsen	1	CI64-1174	
	do	2	CI68-550	
CS71-280 4-15-71	Texas Crude Oil, Inc. (Operator) et al.	1	CI69-968 [1]	
CS71-295 4-14-71	The Shallow Water Refining Co.	2	CI71-330	
	do	3	CI71-330	
	do	4	CI71-330	
	do	5	CI71-330	
CS71-318 4-15-71	The Dow Chemical Co.	1	CI67-1363 [1]	
CS71-319 4-19-71	John D. Caruthers, Jr.			
CS71-320 4-19-71	Fred Wilson Drilling Co., Inc.			
CS71-321 4-19-71	Triple S Oil Co.			
CS71-322 4-19-71	Cotton Petroleum Co.	1	CI70-53	
	do	2	CI70-45	
	do	3	CI70-861	RI71-380.
	do	4	CI71-163	
	do	5	CI71-322 [1]	
	do	6	CI71-628	
CS71-323 4-19-71	Cal-Ray Petroleum Corp.	1	CI60-614 [1]	
	do	2	CI62-1439	
	do	3	CI62-1440	
	do	4	CI63-16	
CS71-325 4-19-71	R. C. Harris	1	G-4318	
CS71-326 4-19-71	Don R. Nichols			
CS71-327 4-19-71	H. D. Akin			
CS71-328 4-19-71	R. E. Throckmorton, Jr.			
CS71-329 4-19-71	T. A. McCarty			
CS71-330 4-19-71	E. H. Thalman			
CS71-331 4-19-71	McMoran Exploration Co.[3]	1	CI69-1243 [1]	
	do	2	CI70-423 [1]	
	do	[3] 1	CI68-1391 [1,2]	
	do	[3] 2	CI69-859 [1,2]	
	do	[3] 1	CI67-1542 [2]	
CS71-333 4-19-71	Chandler-Simpson, Inc., et al.	1	CI67-1182	
CS71-335 4-19-71	Mallard Exploration, Inc.			

See footnotes at end of table.

APPENDIX—Continued

Docket No. and filing date	Applicant	Canceled FPC gas rate schedule	Terminated certificate docket No.	Terminated rate increase docket No.
CS71-336 4-19-71	Dr. Robert Mack Caruthers			
CS71-337 4-19-71	Veva O. Caruthers			
CS71-338 4-19-71	Caruthers Operating Co., Inc. (Operator) et al.	1	CI62-62	
CS71-339 4-19-71	Floyd M. Hodge	1	G-20466	
CS71-340 4-19-71	Burlington Bank & Trust Co., Burlington, Iowa, Trustee under the will of H. E. Trouillo.	1	G-2661	
CS71-341 4-19-71	Mills Bennett Estate	1	G-2955	
	do	2	G-2955	
	do	3	G-2955	
	do	4	G-2955	
	do	5	G-10101	
CS71-342 4-19-71	Robert E. King	1	CI64-1324	
	do	2	CI65-244	
	do	3	CI65-246	
	do	4	CI63-1130	
CS71-343 4-12-71	Singer-Fleischaker Oil Co. et al.	1	CI63-1217	RI67-200.
	do	2	CI66-911	
	do	3	CI67-1692 [1]	
	do	4	G-6225	
	do	5	G-8295	
	do	6	G-9426	
	do	7	G-13209	
	do	8	G-13719	
	do	9	G-18767	RI62-437. RI67-432.
	do	10	CI67-651	
	do	11	CI67-651	
	do	12	CI68-1108	RI66-290.[4]
	do	13	CI68-1109	
CS71-344 4-19-71	Southwest Exploration Consultants, Inc. and Hanns J. Weinmann.			
CS71-345 4-19-71	James D. Heldt et al.	1	G-3277	
	do	2	CI65-1234	
CS71-346 4-19-71	Estate of John W. O'Boyle	[3] 3	CI65-1233 [3]	
CS71-348 4-20-71	L. B. Nichols, Jr. et al.	1	G-20145	
	do	2	CI65-266	
CS71-349 4-20-71	GHK Corp.	[4] 1	CI66-387 [5]	
	do	[4] 2	CI71-40 [5]	
CS71-350 4-20-71	Chandler & Associates, Inc. et al.	1	CI67-1300	
	do	2	CI68-1351	
	do	3	CI69-1153	
	do	4	CI70-73	
	do	5	CI71-319 [1]	
	do	6	CI71-323 [1]	
CS71-351 4-20-71	Voor Mac Trust	1	CI63-122	
CS71-353 4-13-71	Rutledge H. Deas, Jr.			
CS71-354 4-20-71	Shenandoah Oil Corp. et al.	1	CI66-983	
	do	2	CI67-223	
	do	3	CI67-1368	
	do	4	CI67-1331	
	do	5	CI67-1332	
	do	6	CI67-1641	
	do	7	CI67-1723	
	do	8	CI69-388	
	do	9	CI69-535	
	do	10	CI70-741 [1]	
	do	11	CI70-899	
	do	12	CI70-962	
	do	13	CI71-447	
	do	14	G-12609	
	do	15	CI62-891	
	do	16	CI62-289	
	do	17	CI71-617 [1]	
CS71-355 4-20-71	Oakland Corp. et al.	1	CI70-519	

APPENDIX—Continued

Docket No. and filing date	Applicant	Canceled FPC gas rate schedule	Terminated certificate docket No.	Terminated rate increase docket No.
CS71-356 4-20-71	South States Oil & Gas Co.	1	G-9897	
	do	2	G-9897	
	do	3	G-10865	
	do	4	G-13087	
CS71-357 4-21-71	Paul K. Lefforge and E. H. Klein	1	G-4081	
	do	2	G-4081	
CS71-358 4-21-71	Consolidated Gas & Equipment Co. of America (Operator) et al.	1	CI61-1635	RI70-681.
CS71-360 4-21-71	Roger M. Wheeler	1	CI66-1351	
	do	2	CI67-398	
	do	3	CI60-730	
	do	4	CI68-82	
	do	5	CI68-1151	
CS71-361 4-21-71	Alamo Petroleum Co.	1	CI63-1174	
	do	2	CI63-1131	
	do	3	CI63-1191	
	do	4	CI63-66	RI71-616.
	do	[7] 1	CI67-1440 [1,7]	
	do	[7] 2	CI71-177 [1,7]	
CS71-367 4-21-71	Logue and Patterson	3	CI60-45	
	do	11	CI65-19	
	do	12	CI64-1556	
	do	13	CI67-1824	
	do	14	CI70-51	RI71-345. RI71-996.
	do	15	CI71-873	
CS71-376 4-22-71	Triange J Oil Co.	1	CI71-335	
CS71-377 4-22-71	Expando Production Co. (Operator) et al.	1	G-12379	RI64-801.
	do	2	CI64-444	
	do	3	CI63-299 [1]	
	do	4	CI64-41 [1]	
	do	5	CI66-405 [1]	
	do	6	CI66-406 [1]	
	do	7	CI67-202	
CS71-378 4-22-71	J. S. Abercrombie Mineral Co., Inc.	2	CI61-597	
CS71-379 4-22-71	Perry E. Larson	[8] 1	G-8576 [8]	
	do	[8] 2	CI62-1015 [8]	
CS71-381 4-22-71	J. S. Turner	1	CI69-601	
	do	2	CI69-1136	
CS71-382 4-22-71	C O. Hardy (Operator) et al.	1	CI66-54	
	do	2	CI64-988	
	do	3	CI66-128	
	do	4	G-19430	
	do	5	G-3294	
	do	6	CI67-748	
	do	7	CI67-754	
CS71-383 4-23-71	Texas Gulf Sulphur Co. (Operator) et al.	3	CI69-1229	
	do	4	CI69-1147	
CS71-386 4-23-71	Nelson B. Escue (Operator) et al.	1	CI65-610	
	do	2	CI66-51	
CS71-387 4-23-71	First National Oil, Inc.	1	CI70-737	
CS71-388 4-23-71	George P. Caulkins, Jr.	1	CI60-560	RI71-1005.
CS71-389 4-23-71	Beneficial Oil Co.	1	CI61-720	
CS71-390 4-23-71	Wichita Industries, Inc.	[9] 4	G-8076 [9]	
	do	[9] 5	G-8076 [9]	RI64-151.
CS71-393 4-26-71	W J. Coppinger (Operator) et al.	4	CI64-1161	
	do	5	CI65-848	
	do	6	G-15379	
	do	8	CI67-1857	
CS71-394 4-26-71	Archer Production Co.	1	G-17577	
	do	2	CI65-226	
CS71-397 4-26-71	W. P. Carr et al.	1	G-7165	
	do	2	G-7165	
	do	3	G-20229	RI71-233.
CS71-399 4-26-71	Wilmar Oil Inc. (Operator) et al.	1	CI69-1078	RI71-33.
	do	2	CI70-4444	
CS71-402 4-26-71	Patoil Corp. (Operator) et al.	1	CI62-97	
CS71-406 4-26-71	J & M Well Service, Inc.	2	CI65-855	
CS71-407 4-26-71	M. L. Kinne	1	G-4233	
CS71-408 4-26-71	Pauline F. VanCleve Cruse	1	CI67-1436	
CS71-412 4-26-71	C. Arnold Brown (Operator) et al.	1	CI65-1269	
CS71-413 4-26-71	Robert L. Bayless	1	G-15163	
CS71-414 4-26-71	Summit Energy, Inc.	[10] 1	G-14797 [10]	
	do	[10] 2	G-11176 [10]	RI64-48 [10] RI65-446.
	do	[10] 3	G-11596 [10]	RI62-254. RI67-366.
	do	[10] 4	G-11385 [10]	
	do	[10] 5	G-11389 [10]	RI64-65. RI65-446.
	do	[10] 8	G-14550 [10]	RI62-516. RI67-447.
	do	[10] 9	G-16159 [10]	
	do	[10] 11	CI61-278 [10]	
	do	[10] 12	CI65-383 [10]	RI66-41.
	do	[10] 13	CI70-247 [10]	RI70-682. RI70-1063.
CS71-421 4-26-71	Prairie Producing Co.	1	CI68-191	
	do	2	CI69-346	
	do	3	CI69-953	
	do	4	CI70-307	
CS71-422 4-26-71	David C. Bintliff	8	CI69-986 [1]	
	do	9	CI70-386 [1]	
CS71-427 4-26-71	The Ohio Fuel Supply Co.	3	G-4224	
	do	4	CI61-533	
	do	5	CI68-1364	
	do	6	CI71-337	
CS71-428 4-26-71	Edwin J. Peet, Trustee	1	G-3282	
	do	2	G-3282	
	do	3	G-8386	
	do	4	G-9517	
CS71-429 4-26-71	The First National Bank of Amarillo, Trustee, Betty Teel Trust.	1	CI60-817	
CS71-431 4-27-71	S & G Oil Co., Inc.	1	CI69-1202	
	do	2	CI71-309	
	do	3	CI71-342	
CS71-432 4-27-71	Oil & Gas Futures, Inc., et al.	1	CI65-253	
	do	2	CI68-113	
	do	[11] 1	CI66-742 [11]	
	do	[11] 2	CI71-445 [1,11]	
CS71 433 4-27-71	A. J. Hodges Industries, Inc.	4	G-4825	
	do	5	G-4825	
	do	6	G-4825	
	do	7	G-4825	
	do	8	G-4825	
CS71-435 4-27-71	Corpus Christi Leaseholds, Inc.	1	CI70-59	
CS71-436 4-27-71	Stralsa Oil & Gas Co., Inc (Operator) et al.	1	CI67-260	
CS71-438 4-27-71	Clark Fuel Producing Co. (Operator) et al.	1	G-9529	
	do	3	G-10150	
	do	5	G-17176	
	do	6	G-10977	
	do	8	G-19623	
	do	9	CI61-1279	
	do	10	CI63-1405	
	do	11	CI65-828	
CS71-439 4-23-71	Evan A. Thomas	1	CI65-395	

See footnotes at end of table.

APPENDIX—Continued

Docket No. and filing date	Applicant	Canceled FPC gas rate schedule	Terminated certificate docket No.	Terminated rate increase docket No.
CS71-441 4-27-71	Winston Jenkins	1	G-18322	RI71-388.
CS71-442 4-26-71	W. H. Stockard, et al.	1	G-3835	
	do	2	CI61-751	
CS71-443 4-26-71	Commercial National Bank in Shreveport, Trustee for Mrs. Cecil Ezelle Whitwell.	[13] 2	G-7471 [13]	
	do	[13] 3	G-7464 [13]	
CS71-444 4-26-71	Mallonee-Mahoney, Inc.	1	C-68-1184	RI66-398.[14] RI68-714.
	do	2	CI70-110	RI65-26.[14] RI66-398.[14] RI69-521.[14]
CS71-445 4-26-71	William H. Cook, Deceased et al.	1	CI61-145	
CS71-446 4-27-71	Mrs. James R. Dougherty et al.	1	CI61-619	
	do	[15] 2	G-11220 [15]	
	do	[16] 1	G-12835 [16]	RI70-1120.
CS71-510 4-29-71	Newmont Oil Co.	1	G-8293	
	do	2	G-8242	
	do	3	G-13757	RI71-1047.
	do	4	G-17765	
	do	5	G-13948 [1]	
	do	6	CI65-838 [1]	
	do	7	CI67-975 [1]	
	do	8	CI68-307 [1]	
	do	9	CI68-692 [1]	
CS71-511 4-29-71	Equipment, Inc.	1	CI69-768 [1]	
CS71-512 4-29-71	Success Oil & Gas Co., Inc.	[17] 1	CI66-57 [17]	
		[17] 2	CI69-24 [17]	
CS71-513 4-29-71	Trident Oil & Gas Corp.	[18] 1	CI64-1818 [18]	
		[18] 2	CI64-37 [18]	
CS71-514 4-29-71	Mitchell & Lewis et al.	[19] 1	G-4349 [19]	
	do	[19] 2	G-3790 [19]	
CS71-526 4-29-71	George O. Shettle	1	CI71-683 [1]	
CS71-529 4-29-71	R. L. Wolfson et al.	1	CI69-347	
CS71-531 4-29-71	Louis H. Weltman et al.	1		
		2	G-13667	
		3	CI69-454	
CS71-606 5-3-71	Joseph Arnold Scott			
CS71-607 5-3-71	Isaac Arnold, Jr.			
CS71-608 5-3-71	Robert Tilly Arnold			
CS71-609 5-3-71	Isaac Arnold, III			
CS71-610 5-3-71	Antoinette Arnold			
CS71-782 5-4-71	A. A. Kemnitz			
CS71-783 5-4-71	The Anschutz Corp., Inc.			
CS71-784 5-4-71	Warren V. Kaess, Trustee			
CS71-786 5-4-71	Lloyd H. Smith et al.			
CS71-787 5-4-71	W. R. Persons			
CS71-788 5-4-71	Arthur E. Jones			
CS71-789 5-4-71	Estate of R. A. Irwin, Deceased			
CS71-790 5-4-71	Jack London, Jr. and Billinda Petroleum Corp.			
CS71-791 5-5-71	John T. Minges			
CS71-826 4-26-71	Commercial National Bank in Shreveport, Trustee for Mrs. Jean Whitwell Carpenter.	[13] 2	G-7471 [13]	
	do	[13] 3	G-7464 [13]	
CS71-827 4-26-71	Commercial National Bank in Shreveport, Trustee for Mrs. Marcia Whitwell Persons.	[13] 2	G-7471 [13]	
		[13] 3	G-7464 [13]	
	do	[13] 3	G-7464 [13]	
CS71-906 5-12-71	The Waverly Oil Works Co.			
CS71-909 5-13-71	Margaret Marston Morgan			
CS71-961 5-19-71	James C. Holmes			
CS71-1124 6-17-71	Mac Farlane Company			
CS71-1125 6-24-71	Greenbrier 65, Ltd.			
CS71-1126 6-24-71	Greenbrier 66 Ltd.			
CS71-1127 6-24-71	Greenbrier 67 Ltd.			
CS71-1128 6-24-71	Greenbrier 68 Ltd.			
CS71-1129 6-24-71	Greenbrier 69 Ltd.			
CS71-1130 6-24-71	Greenbrier 70 Ltd.			
CS71-1140 6-28-71	COENCO-1969			
CS71-1143 6-30-71	V. F. Vasicek			
CS71-1144 6-30-71	J. M. Fullinwider			
CS71-1147 5-19-71	J. A. Hager & Jessie Hager, d.b.a. Hager Gas Co.			
CS72-1 7-1-71	Norman R. Rousselot			
CS72-2 7-1-71	Windom & Sons Gas & Oil Co.			
CS72-3 7-1-71	Estill S. Heyser, Jr.			
CS72-14 7-2-71	Frost National Bank, Trustee, Mayme G. Morris Trust B.			
CS72-16 7-8-71	Charles D. Prutzman, Jr.			
CS72-17 7-8-71	W. O. Schock Co.			
CS72-19 7-9-71	Temtex Oil Co.			

See footnotes at end of table.

[1] Temporary certificate.
[2] Certificate and rate schedule on file as McMoran Properties, Inc.
[3] Certificate and rate schedule on file as Horn Silver Mines Co., et al.
[4] Terminated only insofar as it pertains to co-respondent Singer-Fleischaker Oil Co.
[5] Certificate and rate schedule on file as John W. O'Boyle.
[6] Certificate and rate schedule on file as Grover & Hefner Petroleum Management Corp.
[7] Certificate and rate schedule on file as Birthright Oil Co.
[8] Certificate and rate schedule on file as Perry E. Larson and Max L. Thomas (Operator) et al.
[9] Certificate and rate schedule on file as Wichita River Oil Corp.
[10] Certificate and rate schedule on file as Western Oil Fields, Inc.
[11] Terminated only insofar as it pertains to Western Oil Fields, Inc. FPC Gas Rate Schedule No. 2.
[12] Certificate and rate schedule on file as Oil & Gas Futures, Inc., of Texas.
[13] Certificate and rate schedule on file as E. V. Whitwell.
[14] Terminated only insofar as it pertains to co-respondent, Mallonee-Mahoney, Inc.
[15] Certificate and rate schedule on file as Genieve Tarlton Dougherty et al.
[16] Certificate and rate schedule on file as Dakamont Exploration Co. (Operator) et al.
[17] Certificate and rate schedule on file as American Oil & Gas Properties of Texas, Inc.
[18] Certificate and rate schedule on file as H & H Oil & Gas Corp.
[19] Certificate and rate schedule on file as J. B. Mitchell et al.

[FR Doc.71-15363 Filed 10-22-71;8:45 am]

[Dockets Nos. RI72-80, etc.]

MARATHON OIL CO. ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund[1]

OCTOBER 15, 1971.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in appendix A below.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

[1] Does not consolidate for hearing or dispose of the several matters herein.

The Commission finds:

It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR, Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the Respondent or by the Commission. Each Respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf*		Rate in effect subject to refund in docket No.
									Rate in effect	Proposed increased rate	
RI72-80	Marathon Oil Co.	24	[1] 1-8	El Paso Natural Gas Co. (Blanco Field, San Juan County, N. Mex., San Juan Basin).	$31,555	9-20-71	2-16-72	[7] Accepted			RI69-360.
RI72-72	Mobil Oil Corp.	200	[2] 1-9	El Paso Natural Gas Co. (Blanco Mesa Verde Field, San Juan County, N. Mex., San Juan Basin).	1,642	9-20-71	2-11-72	[7] Accepted			RI69-431.
	do	361	[2] 1-12	El Paso Natural Gas Co. (Gallegos Canyon Field, San Juan County, N. Mex., San Juan Basin).	4,981	9-20-71	2-11-72	[7] Accepted			RI69-430.
RI72-118	Atapaz Petroleum, Inc.	2	4	Natural Gas Pipeline Co. of America (Rhoda Walker Field, Ward County, Tex., Permian Basin).	116	9-22-71		11-23-71	[6] 14.0848	[3,6] 14.9802	RI70-677.
RI72-119	Texaco, Inc.	26	21	El Paso Natural Gas Co. (Blanco Mesa Verde Field, San Juan County, N. Mex., San Juan Basin).	143,807	9-17-71		3-18-72	[4] 15.2693	[4,5] 29.65	RI69-561.
	do	197	9	El Paso Natural Gas Co. (Ignacio Blanco Field, La Plata County, Colo.) (San Juan Basin).	35,306	9-17-71		3-18-72	[4] 15.0075	[4] 29.13	RI69-507.

*Unless otherwise stated, the pressure base is 15.025 p.s.i.a.
[1] Amended increase. Prior increase to 21.33 cents was suspended in Docket No. RI72-80 until Feb. 16, 1972.
[2] Amended increase. Prior increase to 21.33 cents was suspended in Docket No. RI72-72 until Feb. 11, 1972.
[3] Increase to contract rate (17.5 cents base rate plus 0.06597 cent tax reimbursement minus 2.5781-cents downward B.t.u. adjustment and treating cost.)
[4] Includes minimum 1-cent guarantee for liquids.
[5] Not applicable to acreage added by Supplement No. 19.
[6] The pressure base is 14.65 p.s.i.a.
[7] Accepted, for filing in lieu of the previously filed increases subject to the suspension proceedings in Dockets Nos. RI72-80 and RI72-72.

Marathon Oil Co. and Mobil Oil Corp. have submitted amended favored-nation increases for sales of gas in the San Juan Basin Area. Previously, Respondents had submitted favored-nation increases to only 21.33 cents per Mcf to avoid a suspended period of longer than 1 day. Since the Commission suspended the 21.33 cent rates for a 5-month period, Mobil proposes amended rates of 29.23 cents which are equal to the triggering rate now being collected subject to refund by Aztec Oil & Gas Co. and Marathon proposes an amended rate of 28.23 cents which excludes the 1 cent minimum guarantee for liquids. The amended rates are accepted for filing in lieu of the previously filed rates subject to the same suspension proceedings and with the same effective dates. Marathon is advised that it must file a rate increase if it proposes in the future to collect the 1 cent minimum guarantee for liquids.

The proposed increases by Texaco for sales to El Paso in San Juan Basin are based on favored-nation clauses which were allegedly activated by Aztec Oil & Gas Co.'s unilateral rate increase to 29.23 cents which became effective subject to refund in Docket No. RI71-744 on August 1, 1971. The purchaser, El Paso Natural Gas Co., is expected to protest these favored-nation increases as it has previous filings, on the basis that they are not contractually authorized. In view of the contractual problem presented, the hearings herein shall concern themselves with the contractual basis for these favored-nation filings, as well as the justness and reasonableness of the proposed increased rates. These proposed increases exceed the corresponding rate filing limitations imposed in Southern Louisiana and therefore are suspended for 5 months.

Each supplement listed in this appendix is effective as of the date provided in the "Date Suspended Until" column or such later date as may be authorized under Executive Order No. 11615. This order does not relieve any producer herein of any responsibility imposed by, and is expressly subject to, the Commission's Statement of Policy Implementing the Economic Stabilization Act of 1970 (Public Law 91-379, 84 Stat. 799, as amended by Public Law 92-15, 85 Stat. 38), including such amendments as the Commission may require, and Executive Order No. 11615.

All of the producers' proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's Statement of General Policy No. 61-1, as amended (18 CFR 2.56).

[FR Doc. 71-15413 Filed 10-22-71;8:45 am]

[Docket No. CP72-8]

COLUMBIA LNG CORP.

Order Granting in Part Motion for Reconsideration

OCTOBER 15, 1971.

On September 28, 1971, the Commission issued an order in the above-captioned proceeding granting interventions, fixing a date for the filing of testimony and setting a date for the commencement of formal hearings. Columbia LNG Corp. (Columbia LNG), on October 1, 1971, filed a motion for reconsideration, clarification and amendment of said order. On October 8, 1971, it filed a supplement to its motion.

The motion as originally filed sought an order from the Commission (1) setting a preliminary conference or alternatively directing the presiding examiner to convene a prehearing conference, and advance the hearing date along with setting certain other enumerated procedural steps, (2) taking notice of the withdrawal of the notice of intervention

filed by The People of the State of California and by The Public Utilities Commission of the State of California and (3) more specifically indicating those matters on which an appropriate evidentiary record is to be developed at the formal hearing.

At the behest of Columbia LNG, the presiding examiner, by notice of October 4, 1971, convened a prehearing conference on October 7, 1971. As a result of that conference, Columbia LNG now seeks an advance of the date of hearing from November 9, 1971, to October 20, 1971. Since it appears that all parties have agreed to advancing the date of hearing and upon consideration of the statements contained in the motion as supplemented with due regard as to the availability of a hearing examiner we shall advance the hearing date to October 26, 1971. The remaining portion of this part of the motion relates to procedural steps that are more properly directed to the presiding examiner and may well have been mooted by virtue of the conference held on October 7, 1971.

As to the second part of the motion, it is a matter of public record that on September 20, 1971, The People of the State of California and The Public Utilities Commission of the State of California filed jointly a notice of withdrawal of their intervention.

Regarding the third part of the motion, we consider that our order sufficiently delineated without delimiting the issues to be resolved upon consideration of a full evidentiary record.

The Commission orders:

Ordering paragraph (C) of the Commission's order of September 28, 1971, in the instant proceeding is hereby amended so as to change the hearing date therein stated of November 9, 1971, to that of October 26, 1971, and to that extent we grant the motion of Columbia LNG, as supplemented. In all other respects said motion, as supplemented, is denied.

By the Commission.

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

[FR Doc.71-15446 Filed 10-22-71;8:45 am]

[Project 2174]

SOUTHERN CALIFORNIA EDISON CO.

Notice of Land Withdrawal (Additional)

OCTOBER 18, 1971.

Conformable to the provisions of section 24 of the Act of June 10, 1920, as amended, this Commission by formal notice of land withdrawal dated September 9, 1963, gave notice of the reservation of approximately 173.09 acres of United States lands pursuant to the filing on February 23, 1960, of a completed application for license (major) by Southern California Edison Co., for Project No. 2174.

Southern California Edison Company filed on April 12, 1971, an application for amendment of license (major) to show the relocation of a portion of the portal 33 KV transmission line necessitated by the construction of an improvement to Edison Lake Road (Forest Service Road No. 4S01). This relocation embraces additional United States lands.

Therefore, in accordance with the provisions of section 24 of the Act of June 10, 1920, as amended, notice is hereby given that the lands hereinafter described, insofar as title thereto remains in the United States, are included in power Project No. 2174 and are, from the date of filing of said application, reserved from entry, location or other disposal under the laws of the United States until otherwise directed by this Commission or by Congress.

MOUNT DIABLO MERIDIAN, CALIFORNIA

Those portions of the following described subdivisions lying within 25 feet of the centerline survey of the relocated transmission line as shown upon map exhibit K, sheet 2 (FPC No. 2174-19) filed April 12, 1971.

T. 8 S., R. 26 E.,
Sec. 5, E½SW¼, SW¼SW¼.

The area of U.S. lands reserved by this notice is approximately 0.33 acres, all within the Sierra National Forest. All of the above-described lands have previously been withdrawn for power purposes by power Project Nos. 67, 110, 2174, or 2175.

The general determination made by the Commission at its meeting of April 17, 1922 (2d. Ann. Rept. 128), is applicable to the above-described lands.

Copies of the aforementioned project map exhibit have been transmitted to the Geological Survey, the Bureau of Land Management, the Forest Service, the Fish and Wildlife Service, and the Bureau of Reclamation.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.71-15447 Filed 10-22-71;8:46 am]

FEDERAL RESERVE SYSTEM

COUNTY NATIONAL BANCORPORATION

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 County National Bancorporation, which is a bank holding company located in Clayton, Mo., for prior approval by the Board of Governors of the acquisition by Applicant of not less than 90 percent of the voting shares of Big Bend Bank, Webster Groves, Mo.

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 St. Louis.

Board of Governors of the Federal Reserve System, October 19, 1971.

[SEAL] TYNAN SMITH, *Secretary of the Board.*

[FR Doc.71-15448 Filed 10-22-71;8:46 am]

FIRST AT ORLANDO CORP.

Notice of Applications for Approval of Acquisition of Shares of Banks

Notice is hereby given that two separate applications have been made, as listed below, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by First at Orlando Corp., which is a bank holding company located in Orlando, Fla.

1. Application for prior approval by the Board of Governors of the acquisition by applicant of at least 90 percent of the voting shares of The Commercial Bank & Trust Company, of Ocala, Ocala, Fla.

2. Application for prior approval by the Board of Governors of the acquisition by applicant of at least 90 percent of the voting shares of Citizens Commercial Bank of Ocala, Ocala, Fla., a proposed new bank.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be 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 acquisitions 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 applications 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, October 18, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-15485 Filed 10-22-71;8:49 am]

FIRST TULSA BANCORPORATION, 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 Tulsa Bancorporation, Inc., which is a bank holding company located in Tulsa, Okla., for prior approval by the Board of Governors of the acquisition by applicant of 14.5 percent of the voting shares of Southeastern State Bank, Tulsa, Okla.

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 Kansas City.

Board of Governors of the Federal Reserve System, October 19, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-15449 Filed 10-22-71;8:46 am]

FLORIDA NATIONAL BANKS OF FLORIDA, INC.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of Florida National Banks of Florida, Inc., Jacksonville, Fla., for approval of acquisition of 80 percent or more of the voting shares of Brevard National Bank, Titusville, Fla.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3(a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by Florida National Banks of Florida, Inc., Jacksonville, Fla., a registered bank holding company, for the Board's prior approval of the acquisition of 80 percent or more of the voting shares of Brevard National Bank, Titusville, Fla. (Brevard Bank).

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Comptroller of the Currency, and requested his views and recommendation. The Comptroller recommended approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on August 26, 1971 (36 F.R. 16964), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the applicant and the banks concerned, and the convenience and needs of the communities to be served, and finds that:

Applicant, the second largest banking organization in the State of Florida controls 30 banks located throughout the State with aggregate deposits of approximately $1.1 billion, representing 7.6 percent of total commercial bank deposits in the State. (All banking data are as of December 31, 1970, and reflect holding company formations and acquisitions approved by the Board through September 28, 1971.) Consummation of the proposal herein would increase applicant's share of commercial bank deposits in the State by an insignificant amount.

Brevard Bank ($9 million of deposits) operates one banking office located approximately 5 miles south of downtown Titusville, Fla. It is the sixth largest of eight banking organizations in northern Brevard County (which approximates the relevant banking market) and controls 7.3 percent of commercial bank deposits in this area. The two largest banks in northern Brevard County are subsidiaries of multibank holding companies and control approximately 43 percent of commercial bank deposits in the market.

Applicant's subsidiary closest to Brevard Bank is located 35 miles west of Orlando, Fla. No competition exists between Brevard Bank and this or any other of applicant's subsidiary banks. Additionally, it does not appear likely that such competition will develop in the future in light of the facts presented, notably the distances separating Brevard Bank from applicant's subsidiaries, the number of banks in the intervening area and the restrictive provisions of the Florida law on branch banking. In view of the present static economic condition in the Titusville area, there appears to be little likelihood that applicant would establish a de novo office in the area served by Brevard Bank. Thus, it appears that consummation of applicant's proposal would neither eliminate any meaningful existing nor foreclose significant potential competition. Affiliation with applicant may enable Brevard Bank to compete more aggressively with the larger banking organizations in the market. On the basis of the record before it, the Board concludes that consummation of the proposed acquisition would not have an adverse effect on competition in any relevant area.

The financial and managerial resources and prospects of applicant, its subsidiaries and Brevard Bank are regarded as consistent with approval. Applicant proposes to draw upon its technical and managerial resource strength to assist Brevard Bank in obtaining a new executive officer to fill that presently vacant position and to make available to Brevard Bank applicant's extensive trust, auditing, investment management, and advertising services. Thus, considerations relating to the convenience and needs of the communities involved lend support to approval of the application. It is the Board's judgment that the proposed transaction would be in the public interest, and that the application should be approved.[1]

It is hereby ordered, On the basis of the record, that said application be and

[1] Applicant's banks were controlled by the duPont Trust which was required by the 1966 amendments to the Act to divest either its banking or its nonbanking assets by July 1, 1971. The Board has under review the Trust's contention that it is not a bank holding company with respect to banks controlled by applicant. Approval of this application is not intended to reflect acquiescence by the Board in the Trust's contention.

hereby is approved for the reasons summarized above, provided that the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order, or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[3] October 18, 1971.

[SEAL] TYNAN SMITH, *Secretary of the Board.*

[FR Doc.71-15486 Filed 10-22-71;8:49 am]

HUNTINGTON BANCSHARES INC.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of Huntington Bancshares Inc., Columbus, Ohio, for approval of acquisition of 80 percent or more of the voting shares of the Portage National Bank, Kent, Ohio.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3(a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by Huntington Bancshares Inc., Columbus, Ohio, for the Board's prior approval of the acquisition of 80 percent or more of the voting shares of the Portage National Bank, Kent, Ohio.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Comptroller of the Currency and requested his views and recommendation. The Comptroller recommended approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on July 9, 1971 (36 F.R. 12930), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered.

It is hereby ordered, On the basis of the record, that said application be and hereby is approved for the reasons set forth in the Board's statement[1] of this date, provided that the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Cleveland pursuant to delegated authority.

By order of the Board of Governors,[2] October 18, 1971.

[SEAL] TYNAN SMITH, *Secretary of the Board.*

[FR Doc.71-15487 Filed 10-22-71;8:49 am]

[1] Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Cleveland.

[2] Voting for this action: Vice Chairman Robertson and Governors Mitchell, Maisel, Brimmer, and Sherrill. Absent and not voting: Chairman Burns and Governor Daane.

PAN AMERICAN BANCSHARES, INC.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of Pan American Bancshares, Inc., Miami, Fla., for approval of acquisition of 80 percent of the voting shares of Citizens National Bank of Orlando, Orlando, Fla.

There has come before the Board of Governors of the Federal Reserve System an amendment to an application filed pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by Pan American Bancshares, Inc., Miami, Fla. (applicant), a registered bank holding company, for the Board's prior approval of the acquisition of at least 80 percent of the voting shares of Citizens National Bank of Orlando, Orlando, Fla.

This application was approved by order of the Board dated June 25, 1970 (1970 Federal Reserve Bulletin 590). The proposal as amended is for applicant to acquire 51 percent of the outstanding voting shares of Bank at an exchange ratio of 1.25 shares of applicant to 1 share of Bank and to make the identical exchange offer to the remaining shareholders of Bank as soon as such offer can be registered with the Securities and Exchange Commission.

The Board has determined that the circumstances found to favor approval of the original proposal continue under the amended proposal and, as viewed in the light of the statutory factors, to weigh favorably toward approval. The banking factors now strongly support such approval. It is the Board's judgment that the proposed transaction is in the public interest and that the Board's order earlier issued in this matter should be amended to allow consummation of the proposal. Accordingly,

It is hereby ordered, That the Board's order of June 25, 1970, is amended to approve applicant's amended proposal and to extend for no more than 3 months from the date of this order the time within which the transaction may be consummated, provided, that such period may be further extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[1] October 18, 1971.

[SEAL] TYNAN SMITH, *Secretary of the Board.*

[FR Doc.71-15488 Filed 10-22-71;8:49 am]

[3] Voting for this action: Vice Chairman Robertson and Governors Mitchell, Daane, Maisel, Brimmer, and Sherrill. Absent and not voting: Chairman Burns.

[1] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Maisel, Brimmer, and Sherrill. Absent and not voting: Governor Daane.

OFFICE OF EMERGENCY PREPAREDNESS

LOUISIANA

Notice of Major Disaster and Related Determinations

Pursuant to the authority vested in me by the President under Executive Order 11575 of December 31, 1970; and by virtue of the Act of December 31, 1970, entitled "Disaster Relief Act of 1970" (84 Stat. 1744); notice is hereby given that on October 13, 1971, the President declared a major disaster as follows:

> I have determined that the damages in certain areas of the State of Louisiana from Hurricane Edith, beginning about September 16, 1971, are of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 91-606. I therefore declare that such a major disaster exists in the State of Louisiana. You are to determine the specific areas within the State eligible for Federal assistance under this declaration.

Notice is hereby given that pursuant to the authority vested in me by the President under Executive Order 11575 to administer the Disaster Relief Act of 1970 (Public Law 91-606) I hereby appoint Mr. George E. Hastings, Regional Director, OEP Region 6, to act as the Federal coordinating officer to perform the duties specified by section 201 of that Act for this disaster.

I do hereby determine the following areas in the State of Louisiana to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of October 13, 1971:

The Parishes of:

Acadia	Lafayette
Cameron	St. Landry
East Baton Rouge	St. Martin
Iberia	St. Mary
Iberville	Vermilion
Jefferson Davis	West Baton Rouge

Dated: October 18, 1971.

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

[FR Doc.71-15463 Filed 10-22-71;8:47 am]

TEXAS

Amendment to Notice of Major Disaster

Notice of Major Disaster for the State of Texas, dated September 25, 1971, and published October 2, 1971 (36 F.R. 19340), and amended October 8, 1971, is hereby further amended to include the following county among those counties determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of September 13, 1971:

The County of Cameron.

Dated: October 18, 1971.

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

[FR Doc.71-15464 Filed 10-22-71;8:47 am]

NATIONAL COMMISSION ON STATE WORKMEN'S COMPENSATION LAWS

WORKMEN'S COMPENSATION LAWS

Notice of a Public Hearing

Notice is hereby given of a public hearing to be held by the National Commission on State Workmen's Compensation Laws at Room 16B3, U.S. Courthouse and Federal Office Building, 1100 Commerce Street, Dallas, TX, commencing at 10 a.m. on November 29, 1971, and continuing through November 30, 1971. At the hearing, interested parties may make oral or written presentations of data, views, and arguments relating to the general question of whether State workmen's compensation laws provide an adequate, prompt, and equitable system of compensation, and to possible methods which might be used by, and sources of information available to, the National Commission on State Workmen's Compensation Laws in making its study and preparing its report under section 27 of the Occupational Safety and Health Act of 1970 (84 Stat. 1616).

Interested persons shall, not later than fifteen (15) days prior to the commencement of the hearing, file with the Chairman, National Commission on State Workmen's Compensation Laws, 1825 K Street NW., Washington, DC 20006, a notice of intention to appear which shall contain the following information:

1. Name and address of the person appearing.

2. The subject matter or matters to be discussed.

3. If such person is appearing in a representative capacity, the name and address of the persons or organizations he is representing.

4. The date and approximate length of time requested for his presentation.

Interested persons may also file written data, views, or arguments with the Commission at the above address.

The oral proceedings shall be stenographically reported and transcripts will be available to interested persons on payment of fees therefor. The presiding officer shall regulate the proceedings, dispose of procedural requests, objections, and comparable matters, and confine the presentation to matters pertinent to the inquiry. He shall have discretion to keep the record open after the close of the hearing to permit any person who participated in the oral presentation to submit additional data, views, and arguments responsive to the oral presentations made by other persons.

Signed at Washington, D.C., this 20th day of October, 1971.

JOHN F. BURTON, Jr.,
Chairman.

[FR Doc.71-15479 Filed 10-22-71;8:48 am]

SECURITIES AND EXCHANGE COMMISSION

[811-1510, 812-3011]

COMMERCE CAPITAL CORP., ET AL.

Notice of Applications

OCTOBER 18, 1971.

Notice is hereby given that Commerce Capital Corp. (Commerce), a Wisconsin corporation registered as a closed-end, nondiversified management investment company under the Investment Company Act of 1940 (Act), has filed an application for an order pursuant to section 8(f) of the Act declaring that Commerce and its proposed successor, Commerce Group, Inc., 6001 North 91st Street, Milwaukee, WI 53225, a Delaware corporation, has ceased to be an investment company and that Commerce Capital Corp. (SBIC Subsidiary), a Delaware corporation and wholly-owned subsidiary of Commerce, has filed an application for an order pursuant to section 6(c) of the Act exempting SBIC Subsidiary from all provisions of the Act.

All interested persons are referred to the applications on file with the Commission for a statement of the representations made therein which are summarized below.

I. Commerce was organized in September 1962 and was licensed in November 1962 as a small business investment company (SBIC) under the Small Business Investment Act of 1958. Commerce registered under the Act in June 1967. Thereafter, Commerce engaged in the business of investing in debt and equity securities of small business concerns. SBIC Subsidiary was organized by Commerce in August 1971 for the purpose of acquiring the SBIC business of Commerce.

On October 23, 1971, the shareholders of Commerce will vote on proposals for Commerce to:

(1) Change the nature of its business so as to cease to be an investment company within the meaning of the Act;

(2) Subject to the approval of the Securities and Exchange Commission and the Small Business Administration (SBA):

(a) Deregister as an investment company under the Act,

(b) Transfer substantially all of Commerce's investment securities, its indebtedness to the SBA (to be guaranteed by Commerce) and its SBIC license to SBIC Subsidiary, and

(c) Acquire the assets and business of Management Systems, Inc. (Mangement), a computer leasing firm, in exchange for shares of common stock of Commerce; and

(3) Conditional on the approval of proposals (1) and (2), change the State of incorporation of Commerce from Wisconsin to Delaware and change its name to Commerce Group, Inc.

In the event that the shareholders of Commerce approve those proposals, Commerce intends to carry them out as soon thereafter as possible. Commerce represents that SBA has considered the proposed transactions, and has indicated that it has no objection.

Section 3(a)(3) defines the term "investment company" as any issuer which is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 per centum of the value of issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis.

Commerce claims that it will not be an investment company as defined by section 3(a)(3) of the Act, and asserts that, even if considered an investment company within the meaning of 3(a)(3), it will not be an investment company by reason of section 3(b)(1).

Section 3(b)(1) of the Act provides that, notwithstanding section 3(a)(3), any issuer primarily engaged, directly or through a wholly-owned subsidiary or subsidiaries, in a business or businesses other than that of investing, reinvesting, owning, holding, or trading in securities is not an investment company within the meaning of the Act.

Table I shows the assets of Commerce and SBIC Subsidiary as of July 31, 1971, excluding $2,344,000 of cash and cash items discussed below and assuming the proposed acquisition by Commerce of the assets of Management and the transfer by Commerce to SBIC Subsidiary of certain investment securities, majority-owned subsidiaries and a wholly-owned subsidiary.

TABLE I

	Direct business and wholly owned non-investment businesses owned directly	Other
Direct business (computer leasing):		
Computer equipment	$4,716,000	
Accounts receivable	40,000	
Cash (working capital)	250,000	
Other assets	94,000	
Wholly owned subsidiary (Land development and real estate business):		
Land Resources Corp	466,000	
Investment securities:		
San Sebastian Gold Mines, Inc		$133,000
SBIC subsidiary (wholly owned):		
Wholly owned subsidiary (Land development and real estate business):		
Bea Kay Real Estate Corp	181,000	
Majority-owned subsidiaries:		
Environment Dynamics Corp		409,000
Homestead Convalescent Center, Inc		106,000
Medical Systems, Inc		350,000
Investment securities		4,477,000
Totals	5,747,000	5,475,000

In addition to $250,000 of cash shown as working capital in table I, Commerce

No. 206——9

will have cash and cash items of approximately $2,344,000. Approximately $1,125,-000 is allocated to meet existing obligations of Management coming due prior to the end of Management's fiscal year ending January 31, 1972. (Commerce will assume a total of approximately $3,634,000 of Management's debt.) Commerce states that $500,000 will be applied as downpayment on additional computer equipment prior to the end of such fiscal year. Commerce represents that the remaining $719,000 will be used to make future acquisitions or to expand the noninvestment company business of Commerce and will not be used to acquire investment securities. Commerce represents that, even if, as illustrated in table I, all cash and cash items except working capital are excluded from the computation, the major portion of Commerce's assets will be devoted, either directly or through wholly-owned subsidiaries, to noninvestment company business uses.

If allocated as shown in table I, 51.2 percent of Commerce's assets will be related to noninvestment company activities. The largest portion of Commerce's operating assets will be devoted to the computer leasing business which it will operate directly with the remainder devoted to the real estate business through wholly-owned subsidiaries. Commerce also represents that its officers will devote the principal portion of their time to the operation of Commerce's computer leasing and real estate businesses and that Commerce will be dependent on such businesses for its primary source of income.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, on application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order which may be made upon appropriate conditions necessary for the protection of investors, and upon the taking effect of such order the registration of such company shall cease to be effective.

II. SBIC Subsidiary seeks an order pursuant to section 6(c) exempting it from all provisions of the Act. SBIC Subsidiary is a wholly owned subsidiary of Commerce, a company represented not to be an investment company. Because of the nature of its business, the active continuation of Commerce's former SBIC business, as described above, SBIC Subsidiary is an investment company.

SBIC Subsidiary represents that but for the outstanding debts of SBIC Subsidiary to the SBA it would not be an investment company within the meaning of the Act by reason of the provisions of section 3(b)(3). That section excepts from the definition of "investment company" any issuer all of the outstanding securities of which (other than short-term paper and directors qualifying shares) are directly or indirectly in a business or businesses other than that of investing, owning, holding, or trading in securities.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person from any provisions of the Act, if and to the extent that, such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

SBIC Subsidiary represents that under all the circumstances it would appear appropriate and consistent with the protection of investors as well as the purposes intended by the Act, to exempt SBIC Subsidiary from all provisions of the Act. SBIC Subsidiary states that its operations will be subject to extensive regulation by the SBA, including regulation of its relations with "associates," including Commerce.

SBIC Subsidiary has consented that any order exempting SBIC Subsidiary from the provisions of the Act may be issued with the imposition of the following conditions:

1. SBIC Subsidiary shall:

(a) Not issue any securities (other than short-term paper as defined in section 2(a)(38) of the Act) except to Commerce or securities issued or guaranteed in connection with the SBA or State SBIC programs, unless such transaction is expressly permitted by order of the Commission.

(b) File with the Commission within 120 days after the close of each fiscal year of SBIC Subsidiary the data required by items 5, 6, 7, and 8 of the annual report on Form N-5R adopted by the Commission pursuant to section 30(a) of the Act;

(c) File with the Commission within 120 days after the close of each fiscal year of SBIC Subsidiary and Commerce (i) a balance sheet of each company showing assets in reasonable detail as of the close of such fiscal year, with a schedule showing such assets at value (taking securities for which market quotations are readily available to market value and taking other securities and assets at value as determined in good faith by the board of directors) and (ii) a statement of income for such fiscal year and a statement of paid-in surplus and retained earnings as of the close of such fiscal year for SBIC Subsidiary and Commerce. SBIC Subsidiary may incorporate by reference in any material filed to meet the requirements of this condition any document or part thereof previously or concurrently filed with the Commission pursuant to any of the Acts administered by the Commission.

2. No person other than Commerce shall own any outstanding security of SBIC Subsidiary (other than short-term paper) except for short-term paper and for securities issued or guaranteed in connection with SBA programs.

Notice is further given that any interested person may, not later than November 3, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Commerce at the address stated above. Proof of such service by affidavit (or in case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in the 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.71-15385 Filed 10-22-71;8:45 am]

[812-2762]

CAL-WESTERN VARIABLE FUND C AND CALIFORNIA-WESTERN STATES LIFE INSURANCE CO.

Notice of Application for Exemption

OCTOBER 18, 1971.

Notice is hereby given that California-Western States Life Insurance Co. (Insurance Company), 2020 L Street, Sacramento, CA 95804, a stock life insurance company organized under the laws of the State of California and Cal-Western Variable Fund C (Fund), a separate investment account registered as a management open-end investment company under the Investment Company Act of 1940 (Act) (collectively called Applicants), have filed an application pursuant to section 6(c) of the Act for exemptions, to the extent noted below, from section 22(d) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

Insurance Company established Fund on September 11, 1969 as a facility for assets which are to be applied to the payment of benefits under individual and group variable annuity contracts sold by Insurance Company. Such contracts are not designed to qualify for tax benefits under either section 401 or 403(b) of the Internal Revenue Code of 1954 as amended.

Section 22(d) provides, in pertinent part, that no registered investment company or principal underwriter thereof shall sell any redeemable security issued

by it to any person except at a current offering price described in the prospectus.

Applicants state that actual sales and administrative costs applicable to each group contract will be determined annually. If the amounts deducted for such expenses during the year preceding the determination exceed the actual costs applicable to a particular group contract, Insurance Company, at its discretion, may allocate all, a portion or none of such excess as an experience rating credit. Each participant, including one who has retired, on behalf of whom payments were made which contributed to the experience rating credit, will be credited with a prorata share of the credit amount produced by payments made on his behalf. Such credit, if applied, will be in the form of a reduction in subsequent sales and administration charges on future payments or by crediting an additional number of accumulation or annuity units, as applicable, equal to the credit due, less any applicable premium taxes. Any such credit would be made in the year following the determination.

Applicants also request an exemption from section 22(d) to permit the application of death benefit payments, maturity or cash surrender values under insurance policies and fixed-dollar annuity contracts issued by Insurance Company, to purchase either individual or group variable annuity contracts without the imposition of additional sales or administrative charges. Applicants represent that application of such proceeds to purchase variable annuity contracts would be permitted only once in a contract year.

In support of these requested exemptions, Applicants state that no unfair discrimination among purchasers of variable annuity contracts will result from the proposed elimination of sales and administrative expense charges because in all cases, sales charges, no less than those applicable to the variable annuity contracts to be purchased, will have been included in the premiums for the insurance policies and fixed-dollar annuity contracts issued by Insurance Company. Applicants represent that any additional administrative expenses which may be involved will have been anticipated in the aforesaid premium rates. Applicants state further that no disruptive distribution patterns for variable annuity contracts can result since such contracts are nonfundable separate contracts between the investor and the issuer.

Section 6(c) authorizes the Commission conditionally or unconditionally to exempt any person, security or transaction or any class or classes of persons, securities or transactions from the provisions of the Act or any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than November 5, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of service (by affidavit or in case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. At any time after such date as provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the matter herein may be issued upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71-15474 Filed 10-22-71;8:48 am]

[811-1070]

CENTRAL LIQUIDATING CORP.

Notice of Filing of Application for Order Declaring That Company Has Ceased To Be an Investment Company

OCTOBER 19, 1971.

In the matter of Central Liquidating Corp. (formerly Central Investment Corporation of Denver), 811 Central Bank Building, Denver, Colo. 80202, 811-1070.

Notice is hereby given that Central liquidating Corp. (formerly Central Investment Corporation of Denver, hereinafter "Applicant"), a Colorado corporation licensed under the Small Business Investment Act of 1958, and registered as a closed-end, diversified, management investment company under the Investment Company Act of 1940 (Act) has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that the Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations set forth therein which are summarized below.

Applicant represents that it registered under the Act on June 22, 1961, by filing a Notification of Registration on form N-8A.

On December 31, 1968, Applicant transferred its license under the Small Business Investment Act of 1958 to Dillon Central, Inc. (the "new CIC") a Colorado corporation which is a wholly-owned subsidiary of Dillon Companies, Inc. (Dillon). Thereafter, Applicant changed its name from Central Investment Corporation of Denver to Central Liquidating Corp., and Dillon Central, Inc. changed its name to Central Investment Corporation of Denver.

The application states that pursuant to an agreement and plan of reorganization the Applicant has, in conjunction with the new CIC, Dillon, and another subsidiary of Dillon named Dillon Capital Corp., transferred all of its business and assets to the new CIC and Dillon Capital Corp. as of December 31, 1968, in exchange for stock of Dillon. The stock of Dillon has been transferred to an agent for the Applicant's former shareholders in accordance with the agreement and plan of reorganization, and has been substantially distributed to such persons. Applicant states that it has paid all obligations not assumed by its successor corporations and transferred the balance of its funds to them, so that it has no assets or known liabilities. Since December 31, 1968, Applicant's former business has been conducted entirely by its successors. Applicant represents it will complete its dissolution upon the granting by the Commission of Applicant's request for an order pursuant to section 8(f) of the Act.

Applicant represents that at all times subsequent to December 31, 1968, it has not been, and it will not in the future be, an investment company within the meaning and purpose of section 3(a) of the Act.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than November 8, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted or he may request he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in 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 for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71-15475 Filed 10-22-71;8:48 am]

INTERSTATE COMMERCE COMMISSION

[Notice 770]

MOTOR CARRIER TRANSFER PROCEEDINGS

OCTOBER 20, 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-72675. By order of October 19, 1971, the Motor Carrier Board on reconsideration approved the transfer to Tom B. York, doing business as Hill Top Transport, White Plains, N.C., of the operating rights in permit No. MC-116399 (Sub-No. 2), issued February 10, 1958, to Floyd Vestal Dull, Mosksville, N.C., authorizing the transportation of fertilizer, from the plantsite of Richmond Guano Co., near Richmond, Va., to points in Davie, Surry, and Yadkin Counties, N.C. V. Talmage Hiatt, Post Office Box 1204, Mount Airy, NC 27030, attorney for applicants.

No. MC-FC-73099. By order of October 19, 1971, the Motor Carrier Board approved the transfer to Pitt-Penn Terminal, Inc., Leetsdale, Pa., of certificate No. MC-54999 (Sub-No. 2), issued August 8, 1968, to Pitt-Penn Terminal Co., Pittsburgh, Pa., authorizing the transportation of general commodities, with exceptions, between the terminal facilities of Pitt-Penn Terminal Co. at Pittsburgh, Pa., on the one hand, and, on the other, points within 15 miles of Pittsburgh, Pa. Arthur J. Diskin, Attorney at Law, 806 Frick Building, Pittsburgh, Pa 15219, applicants' attorney.

No. MC-FC-73151. By order of October 18, 1971, the Motor Carrier Board approved the transfer to B. G. Morrissey, Inc., 6236 Oakley Street, Philadelphia, PA, of certificate No. MC-35877 issued April 7, 1949, to Benjamin G. Morrissey, 6236 Oakley Street, Philadelphia, PA, authorizing the transportation of: Metal furniture and fixtures, paper and paper products, between Philadelphia, Pa., on the one hand, and, on the other, points in specified areas of Pennsylvania, New Jersey, and Delaware.

No. MC-FC-73213. By order of October 19, 1971, the Motor Carrier Board approved the transfer to Sharon Trucking Co., Inc., Longview, Tex., of certificate of registration No. MC-120466 (Sub-No. 1), issued April 16, 1964, to J. L. Bunyard, doing business as Consolidated Construction Co., Carthage, Tex., evidencing a right to engage in transportation in interstate commerce corresponding in scope to Specialized Motor Carrier's Permanent Certificate of Convenience and Necessity No. 5609, issued by the Railroad Commission of Texas. Robert Cargill, Post Office Box 992, Longview, TX 75601, representative for applicants.

No. MC-FC-73221. By order of October 19, 1971, the Motor Carrier Board approved the transfer to Frank's Transportation, Inc., Roslindale, Mass., of certificate of registration No. MC-120685 (Sub-No. 1) evidencing a right to engage in interstate or foreign commerce in the transportation of general commodities solely within the State of Massachusetts, issued May 5, 1971, to Norwood Enterprises, Inc., Braintree, Mass. Lawrence T. Sheils, Attorney, 28 Hall Drive, Norwell, MA 02061.

No MC-FC-73230. By order of October 19, 1971, the Motor Carrier Board approved the transfer to Johnie D. Thompson, doing business as Fowler Truck Line, Fowler, Colo., of certificate of registration No. MC-98205 (Sub-No. 1) evidencing the right to engage in interstate or foreign commerce in the transportation of freight solely within the State of Colorado issued November 27, 1964, to Ermon L. Tyler, doing business as Fowler Truck Line, Fowler, Colo. Robert S. Stauffer, Attorney, 3539 Boston Road, Cheyenne, WY 82001.

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

[FR Doc.71-15493 Filed 10-22-71;8:50 am]

[No. 12530]

ASSIGNED CARS FOR BITUMINOUS COAL MINES

OCTOBER 8, 1971.

Notice is hereby given that on June 14, 1971, the Louisville and Nashville Railroad Co. tendered for filing a petition for leave to file a concurrently tendered petition for interpretation or modification of the outstanding orders in this proceeding, 80 I.C.C. 520 and 93 I.C.C. 701, and for relief from the requirements of rule 22 of the Commission's General Rules of Practice (49 C.F.R. § 1100.22) to avoid the necessity of serving copies of the petitions on all parties of record. Many of the carriers named respondents herein have merged, consolidated, or abandoned operations, and other parties have ceased to exist or have other addresses. In the circumstances, by order entered on October 8, 1971, the requirement of rule 22 to the extent it requires service of every pleading upon all parties to proceedings was waived, solely for the purpose of permitting the filing of the petition for leave to file and the accompanying petition for interpretation or modification.

This proceeding was instituted on the Commission's own motion, and it concerned "the reasonableness and propriety of the (then) present car-distribution rules * * *, in so far as they apply to privately owned coal cars and cars furnished for railroad fuel coal * * *." As a consequence, rules were prescribed which require that, during periods of car shortage, all cars are to be distributed to bituminous coal mines on a pro rata basis. The present petition for leave to file states that the language of the order herein, dated June 13, 1923, requiring each respondent to establish a regulation and practice "whereby all cars distributed by such respondent to such mines must be distributed on a pro rata basis", has prompted the contention that:

> The order governs the distribution of railroad-owned and privately owned coal cars dedicated to coal unit-train service, even though coal unit trains were unknown at the time the order of June 13, 1923, was entered. It is with regard to the contention respecting coal unit trains that L & N seeks relief by the attached petition.
>
> By the attached petition, L & N seeks a determination of the Commission that its order of June 13, 1923, does not apply to the distribution of railroad-owned or privately owned coal cars dedicated to coal unit-train service. As alternative relief, L & N seeks modification of such order so as to exempt from its operation railroad-owned and privately owned coal cars dedicated to coal unit-train service.

Any person interested in the matter which is the subject of the petition in this proceeding, and who wishes to participate actively in any further proceedings herein, shall make known that fact by filing with the Status Branch, Office of Proceedings, of the Commission, on or before 30 days from the date of publication of this notice in the FEDERAL REGISTER, a statement of its position with respect to the merits of the petition, including arguments in support. An original and 15 copies of such statements should be filed with the Commission, and one copy should be served on the petitioner's attorneys: Messrs. Fred R. Birkholz and Joseph L. Lenihan, 908 West Broadway, Louisville, KY. The nature of any further proceedings, if any, will be determined after evaluation of those statements.

Notice of the filing of the petition is given by publication hereof in the FEDERAL REGISTER. Copies of future releases in this proceeding will be served only

upon the petitioner and those responding to this notice.

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

[FR Doc.71-15494 Filed 10-22-71;8:50 am]

RATES, REGULATIONS, AND PRACTICES OF PEORIA & PEKIN UNION RAILWAY CO. AT PEORIA, ILL., AND NEARBY POINTS

In the matter of waiver of rule 22 of general rules of practice.

Present: Laurence K. Walrath, Commissioner, to whom the matter which is the subject of this order has been assigned for action thereon.

Upon consideration of the record in the above-captioned proceeding, and of (1) a petition tendered for filing on May 20, 1971, by Peoria & Pekin Union Railway Co. for leave to file a concurrently tendered petition; (2) the accompanying petition for reconsideration and modification of the outstanding orders in this proceeding, as reflected by the reports at 118 I.C.C. 127 and 115 I.C.C. 469; (3) the letter request dated August 27, 1971, seeking waiver of the service requirements of Rule 22 of the Commission's general rules of practice (49 CFR § 1100.22), requiring service of every pleading upon all parties to proceedings; and (4) the answer of Chicago, Rock Island and Pacific Railroad Co., filed September 23, 1971; and

It appearing, that the last action taken in this proceeding was in 1926; that numerous parties of record herein are deceased or are listed at addresses which no longer exist; that the petition for reconsideration and modification relates only to charges between railroads serving Peoria and Pekin, Ill.; and that petitioner has made service upon the representatives of those carriers;

And it further appearing, that, by granting the action sought to the extent indicated below, all parties will receive notice adequate to meet the requirements of due process, particularly section 553 of the Administrative Procedure Act and section 16(6) of the Interstate Commerce Act; and that this form of notice will, in addition, apprise persons other than those parties who appeared many years ago of the matters of current interest which may be placed in issue;

Wherefore, and for good cause:

It is ordered, That the requirement of the said rule 22, requiring service of every pleading upon all parties to proceedings be, and it is hereby, waived in this proceeding solely to permit the filing of the petition for leave to file the concurrently tendered petition for reconsideration and modification.

It is further ordered, That notice of this action and of the filing of the petition and answer shall be given by depositing a copy of this order and the attached notice in the Office of the Secretary of the Commission, and by the publication of the attached notice in the FEDERAL REGISTER.

Dated at Washington, D.C., this 8th day of October 1971.

By the Commission, Commissioner Walrath.

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

[FR Doc.71-15495 Filed 10-22-71;8:50 am]

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