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(Continued inside)

FEDERAL REGISTER

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Contents

(Continued on next page)

List of CFR Parts Affected

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

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1972, and specifies how they are affected.

Presidential Documents

Title 3—The President

PROCLAMATION 4167

National Newspaper Carrier Day, 1972

By the President of the United States of America

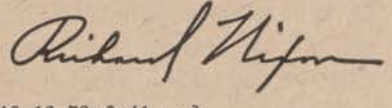
A Proclamation

Young boys and girls who serve as newspaper carriers all across our country are the inheritors of a great American tradition. For many decades, the roster of former news carriers has included leaders in every area of our society. The responsibilities of newspaper carrying have long provided an ideal training experience for millions of young Americans.

There are now more than one million newspaper carriers in our country. The habits they are learning today will make them better citizens tomorrow. And we can expect that the important and diligent service they are presently providing for the American people will also continue as they move into full time occupations.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby designate Saturday, October 14, 1972, as National Newspaper Carrier Day. I urge all the people of this country to join on this day in paying generous tribute to the boys and girls who serve them in this vital capacity.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of October, in the year of our Lord nineteen hundred seventy-two, and of the Independence of the United States of America the one hundred ninety-seventh.



[FR Doc.72-17757 Filed 10-13-72; 3:41 pm]

PROCLAMATION 4168

National Forest Products Week, 1972

By the President of the United States of America

A Proclamation

Each year America's forest lands provide our people with a growing supply of useful wood products—lumber and plywood for housing and industrial purposes, paper for wrappings, containers, newspapers and books, and numerous other items that contribute to the comfort and well-being of our citizens. The people derive many other benefits from our forest lands; among them, recreation sites for families, wildlife habitats, fishing and hunting opportunities, and natural beauty.

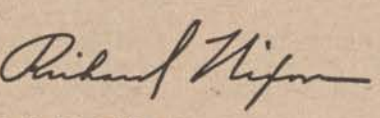
In meeting the steadily increasing demands of an expanding population for wood and wood products, our forest products industries produce jobs and help to assure economic stability, especially to our rural and small communities. They also contribute substantially to maintaining the high standard of living which Americans of this century have come to enjoy and to expect.

With far-sighted management and utilization practices, America can continue to provide products of utility and beauty from the country's renewable forest resources without adverse impact on the environment. Through cooperative research between Federal agencies and private industries, we can find new and better ways both to utilize commercial timber more completely, and simultaneously to protect our forest lands.

In order to give further recognition and emphasis to the importance of forest resources and forest products to the Nation, the Congress, by a joint resolution of September 13, 1960 (74 Stat. 898), has designated the seven-day period beginning on the third Sunday of October in each year as National Forest Products Week, and has requested the President to issue an annual proclamation calling for the observance of that week.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby call upon the people of the United States to observe the week beginning October 15, 1972, as National Forest Products Week, with activities and ceremonies designed to direct public attention toward, and demonstrate our appreciation for, the forest resources which are ours in such abundance and for the role they play in enhancing our material, emotional, and spiritual well-being.

IN WITNESS WHEREOF, I have hereunto set my hand this fourteenth day of October, in the year of our Lord nineteen hundred seventy-two, and of the Independence of the United States of America the one hundred ninety-seventh.



[FR Doc.72-17771 Filed 10-16-72; 9:17 am]

Rules and Regulations

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

DIISONONYL ADIPATE

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 1B2693) filed by Esso Research and Engineering Co., Post Office Box 45, Linden, NJ 07036, and other relevant material, concludes that the food additive regulations should be amended, as set forth below, to provide for the safe use of diisononyl adipate as a plasticizer in vinyl chloride homo- and/or copolymer films for food contact use.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.2511 is amended in paragraph (b) by alphabetically inserting a new item in the list of substances, as follows:

§ 121.2511 **Plasticizers in polymeric substances.**

* * * * *

(b) List of substances:

	Limitations
* * *	* * *
Diisononyl adipate.	For use only: 1. At levels not exceeding 24 percent by weight of permitted vinyl chloride homo- and/or copolymers used in contact with nonfatty, nonalcoholic foods. The average thickness of such polymers in the form in which they contact food shall not exceed 0.005 inch. 2. At levels not exceeding 24 percent by weight of permitted vinyl chloride homo- and/or copolymers used in contact under conditions of use F and G described in table 2 of § 121.2526(c) with fatty, nonalcoholic foods having a fat and oil content not exceeding a total of 30 percent by weight. The average thickness of such polymers in the form in which they contact food shall not exceed 0.005 inch.
* * *	* * *

* * * * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (10-17-72).

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

Dated: October 10, 1972.

ROBERT C. BRANDENBURG,
Acting Associate Commissioner for Compliance.

[FR Doc.72-17649 Filed 10-16-72;8:48 am]

SUBCHAPTER C—DRUGS

PART 135a—NEW ANIMAL DRUGS FOR OPHTHALMIC AND TOPICAL USE

Neomycin Sulfate, Hydrocortisone Acetate, Tetracaine Hydrochloride Ear Ointment, Veterinary

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (10-524V) filed by The Upjohn Co., Kalamazoo, Mich. 49001, proposing the safe and effective use of an ear ointment containing neomycin sulfate and other drugs for the treatment of dogs and cats. The supplemental application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 135a is amended by adding a new section as follows:

§ 135a.31 **Neomycin sulfate, hydrocortisone acetate, tetracaine hydrochloride ear ointment, veterinary.**

(a) *Specifications.* The product contains 5 milligrams of neomycin sulfate, equivalent to 3.5 milligrams of neomycin base, 5 milligrams of hydrocortisone acetate, and 5 milligrams of tetracaine hydrochloride in each gram of ointment.

(b) *Sponsor.* See Code No. 037 in § 135.501(c) of this chapter.

(c) *Conditions of use.* (1) It is indicated for treating acute otitis externa and, to a lesser degree, chronic otitis externa in dogs and cats. In treatment of ear canker and other inflammatory conditions of the external ear canal, a quantity of ointment sufficient to fill the external ear canal may be applied one to three times daily.

(2) Tetracaine and neomycin have the potential to sensitize. Care should be taken to observe animals being treated for evidence of hypersensitivity or allergy to the product. If such signs are noted, therapy with the product should be stopped. Incomplete response or exacerbation of corticosteroid responsive lesions may be due to the presence of nonsusceptible organisms or to prolonged use of antibiotic-containing preparations resulting in overgrowth of nonsusceptible organisms, particularly Monilia.

(3) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (10-17-72).

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

Dated: October 10, 1972.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.72-17650 Filed 10-16-72;8:48 am]

PART 135b—NEW ANIMAL DRUGS FOR IMPLANTATION OR INJECTION

Ketamine Hydrochloride Injection

The Commissioner of Food and Drugs has evaluated supplemental new animal drug applications (45-290V) filed by Parke-Davis & Co., Joseph Campau at the River, Detroit, Mich. 48232, and (43-304V) filed by Bristol Laboratories, Post Office Box 657, Syracuse, N.Y. 13201, proposing the safe and effective use of ketamine hydrochloride injection for restraint in subhuman primates. The supplemental applications are approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 135b is amended in § 135b.28 by revising paragraph (e) as follows:

§ 135b.28 **Ketamine hydrochloride injection, veterinary.**

* * * * *

(e) *Conditions of use.* (1) In cats: (i) It is used for restraint or as the sole anesthetic agent in diagnostic or minor,

brief surgical procedures that do not require skeletal muscle relaxation.

(ii) It is administered intramuscularly at a recommended dose that ranges from 5 to 15 milligrams per pound of body weight depending on the effect desired.

(2) In subhuman primates: (i) It is used for restraint.

(ii) It is administered intramuscularly at a recommended dose that ranges from 3 to 15 milligrams per kilogram of body weight depending upon the species, general condition, and age of the subject.

(3) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (10–17–72).

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

Dated: October 11, 1972.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.72–17646 Filed 10–16–72;8:48 am]

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

PART 146c—CERTIFICATION OF CHLORTETRACYCLINE (OR TETRACYCLINE) AND CHLORTETRACYCLINE-(OR TETRACYCLINE-)CONTAINING DRUGS

Tetracycline Hydrochloride

The Commissioner of Food and Drugs has evaluated a new animal drug application (65–064V) filed by E. R. Squibb & Sons, New Brunswick, N.J. 08903, proposing the safe and effective use of tetracycline hydrochloride capsules in dogs. The application is approved.

The drug is subject to batch certification under the provisions of section 512(n) of the act, and accordingly Part 146c is amended to provide that the drug under its approved labeling shall be dispensed on a prescription basis.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 512 (i) and (n), 82 Stat. 347 and 350–351; 21 U.S.C. 360b (i) and (n)) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 135c and 146c are amended as follows:

1. Part 135c is amended in § 135c.34 by revising paragraph (b) and by adding a new table 3 to paragraph (e) as follows:

§ 135c.34 Tetracycline oral veterinary.

* * * * *

(b) *Sponsor.* (1) See Code Nos. 030 and 037 in § 135.501(c) of this chapter for conditions of use provided in Tables 1 and 2 of paragraph (e) of this section.

(2) See Code No. 035 in § 135.501(c) of this chapter for conditions of use provided for in table 3 of paragraph (e) of this section.

* * * * *

(e) *Conditions of use.* * * *

TABLE 3—IN CAPSULES

	Milligrams per capsule	Limitations	Indications for use
Tetracycline...	250	For dogs; as tetracycline hydrochloride; administer orally 25 mg. per lb. of body weight per day given in divided doses every 6 hours; treatment should be continued until symptoms of the disease have subsided and the temperature is normal for 48 hours; not for use in animals which are raised for food production; Federal law restricts this drug to use by or on the order of a licensed veterinarian.	For treatment of infections caused by organisms sensitive to tetracycline hydrochloride, such as bacterial gastroenteritis due to *E. coli* and urinary tract infections due to *Staphylococcus spp.* and *E. coli.*

2. Part 146c is amended by revising § 146c.204(c)(2) to read as follows:

§ 146c.204 Chlortetracycline hydrochloride capsules, tetracycline hydrochloride capsules; tetracycline capsules; tetracycline phosphate complex capsules.

* * * * *

(c) * * *

(2) *It is packaged for dispensing and intended solely for veterinary use.* Its label and labeling shall bear the statement "Warning: Not for use in animals which are raised for food production" and shall comply with all of the requirements prescribed by subparagraph (1) of this paragraph, except that in lieu of the statement "Caution: Federal law prohibits dispensing without a prescription," each package shall include information containing directions and warnings adequate for the veterinary use of the drug by the laity in all cases except those in which the veterinary prescription statement is required by regulations under Part 135c. In those cases, the veterinary prescription statement shall comply with the requirements prescribed by § 1.106(c) of this chapter.

* * * * *

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (10–17–72).

(Secs. 512 (i), (n), 82 Stat. 347, 350–351; 21 U.S.C. 360b (i), (n))

Dated: October 10, 1972.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.72–17647 Filed 10–16–72;8:48 a.m.]

[DESI 50015]

PART 148i—NEOMYCIN SULFATE

Confirmation of Order Revoking Provisions for Certification of Neomycin Palmitate—Hydrocortisone Acetate—Trypsin—Chymotrypsin Ointment

An order was published in the FEDERAL REGISTER of March 8, 1972 (37 F.R. 4959), amending the antibiotic drug regulations to repeal provisions for certification of neomycin palmitate-hydrocortisone acetate-trypsin-chymotrypsin ointment. The order amended Part 148i by revising the section heading and paragraph (a)(1) of § 148i.33.

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 507, 52 Stat. 1050–51, as amended, 59 Stat. 463, as amended; 21 U.S.C. 352, 357) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), notice is given that no objections were filed to the above-identified order. Accordingly, the amendment promulgated thereby became effective April 17, 1972.

Dated: October 10, 1972.

ROBERT C. BRANDENBURG,
Acting Associate Commissioner
for Compliance.

[FR Doc.72–17648 Filed 10–16–72;8:48 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 7212]

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

Private Foundation Defined

On November 20, 1970, notice of proposed rule making with respect to promulgation of regulations which relate to the definition of a private foundation under section 509 of the Internal Revenue Code of 1954 was published in the FEDERAL REGISTER (35 F.R. 17845). A public hearing on these proposed regulations was held on June 28, 1971. After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the Income Tax Regulations (26 CFR Part 1) are amended as follows:

PARAGRAPH 1. There are inserted immediately before § 1.511–1, the following new sections:

§ 1.509(a) Statutory provisions; private foundation defined; general rule.

SEC. 509. *Private foundation defined*—(a) *General rule.* For purposes of the purposes of this title, the term "private foundation" means a domestic or foreign organization described in section 501(c)(3) other than—

(1) An organization described in section 170(b)(1)(A) (other than in clauses (vii) and (viii));

(2) An organization which—

(A) Normally receives more than one-third of its support in each taxable year from any combination of—

(i) Gifts, grants, contributions, or membership fees, and

(ii) Gross receipts from admissions, sales of merchandise, performance of services, or furnishing of facilities, in an activity which is not an unrelated trade or business (within the meaning of section 513), not including such receipts from any person, or from any bureau or similar agency of a governmental unit (as described in section 170(c)(1)), in any taxable year to the extent such receipts exceed the greater of $5,000 or 1 percent of the organization's support in such taxable year, from persons other than disqualified persons (as defined in section 4946) with respect to the organization, from governmental units described in section 170(c)(1), or from organizations described in section 170(b)(1)(A) (other than in clauses (vii) and (viii)), and

(B) Normally receives not more than one-third of its support in each taxable year from gross investment income (as defined in subsection (e));

(3) An organization which—

(A) Is organized, and at all times thereafter is operated, exclusively for the benefit of, to perform the functions of, or to carry out the purposes of one or more specified organizations described in paragraph (1) or (2),

(B) Is operated, supervised, or controlled by or in connection with one or more organizations described in paragraph (1) or (2), and

(C) Is not controlled directly or indirectly by one or more disqualified persons (as defined in section 4946) other than foundation managers and other than one or more organizations described in paragraph (1) or (2); and

(4) An organization which is organized and operated exclusively for testing for public safety.

For purposes of paragraph (3), an organization described in paragraph (2) shall be deemed to include an organization described in sections 501(c)(4), (5), or (6) which would be described in paragraph (2) if it were an organization described in section 501(c)(3).

[Sec. 509(a), as added by sec. 101(a), Tax Reform Act 1969 (83 Stat. 496)]

§ 1.509(a)–1 Definition of private foundation.

In general. Section 509(a) defines the term "private foundation" to mean any domestic or foreign organization described in section 501(c)(3) other than an organization described in section 509(a)(1), (2), (3), or (4). Organizations which fall into the categories excluded from the definition of "private foundation" are generally those which either have broad public support or actively function in a supporting relationship to such organizations. Organizations which test for public safety are also excluded.

§ 1.509(a)–2 Exclusion for certain organizations described in section 170(b)(1)(A).

(a) *General rule.* Organizations described in section 170(b)(1)(A) (other than in clauses (vii) and (viii)) are excluded from the definition of "private foundation" by section 509(a)(1). For the requirements to be met by organizations described in section 170(b)(1)(A)(i) through (vi), see § 1.170A–9 (a) through (e) and paragraph (b) of this section. For purposes of this section, the parenthetical language "other than in clauses (vii) and (viii)" used in section 509(a)(1) means "other than an organization which is described only in clause (vii) or (viii)." For purposes of this section, an organization may qualify as a section 509(a)(1) organization regardless of the fact that it does not satisfy section 170(c)(2) because:

(1) Its funds are not used within the United States or its possessions, or

(2) It was created or organized other than in, or under the law of, the United States, any State or territory, the District of Columbia, or any possession of the United States.

(b) *Medical research organizations.* In order to qualify under section 509(a)(1) as a medical research organization described in section 170(b)(1)(A)(iii), an organization must meet the requirements of section 170(b)(1)(A)(iii) and § 1.170A–9(c)(2), except that, solely for purposes of classification as a section 509(a)(1) organization, such organization need not be committed to spend every contribution for medical research before January 1 of the fifth calendar year which begins after the date such contribution is made.

§ 1.509(a)–3 Broadly, publicly supported organizations.

(a) *In general.* (1) Section 509(a)(2) excludes certain types of broadly, publicly supported organizations from private foundation status. An organization will be excluded under section 509(a)(2) if it meets the one-third support test under section 509(a)(2)(A) and the one-third gross investment income test under section 509(a)(2)(B).

(2) An organization will meet the one-third support test if it normally (within the meaning of paragraph (c), (d), or (e) of this section) receives more than one-third of its support in each taxable year from any combination of:

(i) Gifts, grants, contributions, or membership fees, and

(ii) Gross receipts from admissions, sales of merchandise, performance of services, or furnishing of facilities, in an activity which is not an unrelated trade or business (within the meaning of section 513), subject to certain limitations described in paragraph (b) of this section.

from permitted sources. For purposes of this section, governmental units, organizations described in section 509(a)(1) and persons other than disqualified persons with respect to the organization shall be referred to as permitted sources. For purposes of this section, the amount of support received from the sources described in subdivisions (i) and (ii) of this subparagraph (subject to the limitations referred to in this subparagraph) will be referred to as the numerator of the one-third support total amount of support received (as defined in section 509(d)) will be referred to as the denominator of the one-third support fraction. For purposes of section 509(a)(2), paragraph (f) of this section distinguishes gifts and contributions from gross receipts; paragraph (g) of this section distinguishes grants from gross receipts; paragraph (h) of this section defines membership fees; paragraph (i) of this section defines "any bureau or similar agency of a governmental unit"; paragraph (j) of this section describes the treatment of certain indirect forms of support; paragraph (k) of this section describes the method of accounting for support; paragraph (l) of this section describes the treatment of gross receipts from section 513(a)(1), (2), or (3) activities; and paragraph (m) of this section distinguishes gross receipts from gross investment income.

(3) An organization will meet the one-third gross investment income test if it normally (within the meaning of paragraph (c), (d), or (e) of this section) receives not more than one-third of its support in each taxable year from gross investment income (as defined in section 509(e)). For purposes of this section, the amount of gross investment income received will be referred to as the numerator of the one-third gross investment income fraction, and the total amount of support received (as defined in section 509(d) will be referred to as the denominator of the one-third gross investment income fraction. For purposes of section 509(a)(2), paragraph (m) of this section distinguishes gross receipts from gross investment income.

(4) The one-third support test and the one-third gross investment income test are designed to insure that an organization which is excluded from private foundation status under section 509(a)(2) is responsive to the general public, rather than to the private interests of a limited number of donors or other persons.

(b) *Limitation on gross receipts*—(1) *General rule.* In computing the amount of support received from gross receipts under section 509(a)(2)(A)(ii) for purposes of the one-third support test of section 509(a)(2)(A), gross receipts from related activities received from any person, or from any bureau or similar agency of a governmental unit, are includible in any taxable year only to the extent that such receipts do not exceed the greater of $5,000 or 1 percent of the organization's support in such taxable year.

(2) *Examples.* The application of this paragraph may be illustrated by the examples set forth below. For purposes of these examples, the term "general public" is defined as persons other than disqualified persons and other than persons from whom the foundation receives gross receipts in excess of the greater of $5,000 or 1 percent of its support in any taxable year, and the term "gross receipts" is limited to receipts from activities which are not unrelated trade or business (within the meaning of section 513).

Example (1). For the taxable year 1970, X, an organization described in section 501(c)(3), received support of $10,000 from the following sources:

Bureau M (a governmental bureau from which X received gross receipts for services rendered)	$25,000
Bureau N (a governmental bureau from which X received gross receipts for services rendered)	25,000
General public (gross receipts for services rendered)	20,000
Gross investment income	15,000
Contributions from individual substantial contributors (defined as disqualified persons under section 4946(a)(2))	15,000
Total support	100,000

Since the $25,000 received from each bureau amounts to more than the greater of $5,000 or one percent of X's support for 1970 (1% of $100,000=$1,000) under section 509(a)(2)(A)(ii), each amount is includible in the numerator of the one-third support fraction only to the extent of $5,000. Thus, for the taxable year 1970, X received support from sources which are taken into account in meeting the one-third support test of section 509(a)(2)(A) computed as follows:

Bureau M	$5,000
Bureau N	5,000
General public	20,000
Total	30,000

Therefore, in making the computations required under paragraph (c), (d), or (e) of this section, only $30,000 is includible in the aggregate numerator and $100,000 is includible in the aggregate denominator of the support fraction.

Example (2). For the taxable year 1970, Y, an organization described in section 501(c)(3), received support of $600,000 from the following sources:

Bureau O (gross receipts for services rendered)	$10,000
Bureau P (gross receipts for services rendered)	10,000
General public (gross receipts for services rendered)	150,000
General public (contributions)	40,000
Gross investment income	150,000
Contributions from substantial contributors	240,000
Total support	600,000

Since the $10,000 received from each bureau amounts to more than the greater of $5,000 or 1 percent of Y's support for 1970 (1% of $600,000=$6,000), each amount is includible in the numerator of the one-third support fraction only to the extent of $6,000. Thus, for the taxable year 1970, Y received support from sources required to meet the one-third support test of section 509(a)(2)(A) computed as follows:

Bureau O	$6,000
Bureau P	6,000
General public (gross receipts)	150,000
General public (contributions)	40,000
Total	202,000

Therefore, in making the computations required under paragraph (c), (d), or (e) of this section, $202,000 is includible in the aggregate numerator and $600,000 is includible in the aggregate denominator of the support fraction.

(c) *"Normally"*—(1) *In general*—(i) *Definition.* The support tests set forth in section 509(a)(2) are to be computed on the basis of the nature of the organization's "normal" sources of support. An organization will be considered as "normally" receiving one-third of its support from any combination of gifts, grants, contributions, membership fees, and gross receipts from permitted sources (subject to the limitations described in paragraph (b) of this section) and not more than one-third of its support from gross investment income for its current taxable year and the taxable year immediately succeeding its current year, if, for the 4 taxable years immediately preceding the current taxable year, the aggregate amount of the support received during the applicable period from gifts, grants, contributions, membership fees, and gross receipts from permitted sources (subject to the limitations described in paragraph (b) of this section) is more than one-third, and the aggregate amount of the support received from gross investment income is not more than one-third, of the total support of the organization for such 4-year period.

(ii) *Exception for material changes in sources of support.* If for the current taxable year there are substantial and material changes in an organization's sources of support other than changes arising from unusual grants excluded under subparagraph (3) of this paragraph, then in applying subdivision (i) of this subparagraph, neither the 4-year computation period applicable to such year as an immediately succeeding taxable year, not the 4-year computation period applicable to such year as a current taxable year shall apply, and in lieu of such computation periods there shall be applied a computation period consisting of the taxable year of substantial and material changes and the 4 taxable years immediately preceding such year. Thus, for example, if there are substantial and material changes in an organization's sources of support for taxable year 1976, then even though such organization meets the requirements of subdivision (i) of this subparagraph based on a computation period of taxable years 1971 through 1974 or 1972 through 1975, such an organization will not meet the requirements of section 509(a)(2) unless it meets the requirements of subdivision (i) of this subparagraph for a computation period of the taxable years 1972 through 1976. See example (3) in subparagraph (6) of this paragraph for an illustration of this subdivision. An example of a substantial and material change is the receipt of an unusually large contribution or bequest which does not qualify as an unusual grant under subparagraph (3) of this paragraph. See subparagraph (5)(ii) of this paragraph as to the procedure for obtaining a ruling whether an unusually large grant may be excluded as an unusual grant.

(iii) *Status of grantors and contributors.* (*a*) If as a result of subdivision (ii) of this subparagraph, an organization is not able to meet the requirements of either the one-third support test described in paragraph (a)(2) of this section or the one-third gross investment income test described in paragraph (a)(3) of this section for its current taxable year, its status (with respect to a grantor or contributor under sections 170, 507, 545(b)(2), 556(b)(2), 642(c), 4942, 4945, 2055, 2106(a)(2), and 2522) will not be affected until notice of change of status under section 509(a)(2) is made to the public (such as by publication in the Internal Revenue Bulletin). The preceding sentence shall not apply, however, if the grantor or contributor was responsible for, or was aware of, the substantial and material change referred to in subdivision (ii) of this subparagraph, or acquired knowledge that the Internal Revenue Service had given notice to such organization that it would be deleted from classification as section 509(a)(2) organization.

(*b*) A grantor or contributor (other than one of the organization's founders, creators, or foundation managers (within the meaning of section 4946(b)) will not be considered to be responsible for, or aware of, the substantial and material change referred to in subdivision (ii) of this subparagraph if such grantor or contributor has made such grant or contribution in reliance upon a written statement by the grantee organization that such grant or contribution will not result in the loss of such organization's classification as not a private foundation under section 509(a). Such statement must be signed by a responsible officer of the grantee organization and must set forth sufficient information, including a summary of the pertinent financial data for the 4 preceding years, to assure a reasonably prudent man that his grant or contribution will not result

in the loss of the grantee organization's classification as not a private foundation under section 509(a). If a reasonable doubt exists as to the effect of such grant or contribution, or if the grantor or contributor is one of the organization's founders, creators, or foundation managers, the procedure set forth in subparagraph (5)(ii) of this paragraph may be followed by the grantee organization for the protection of the grantor or contributor.

(iv) *Special rule for new organizations.* If an organization has been in existence for at least 1 taxable year consisting of at least 8 months, but for fewer than 5 taxable years, the number of years for which the organization has been in existence immediately preceeding each current taxable year being tested will be substituted for the 4-year period described in subdivision (i) of this subparagraph to determine whether the organization "normally" meets the requirements of paragraph (a) of this section. However, if subdivision (ii) of this subparagraph applies, then the period consisting of the number of years for which the organization has been in existence (up to and including the current year) will be substituted for the 4-year period described in subdivision (i) of this subparagraph. An organization which has been in existence for at least 1 taxable year, consisting of 8 or more months, may be issued a ruling or determination letter if it "normally" meets the requirements of paragraph (a) of this section for the number of years described in this subdivision. Such an organization may apply for a ruling or determination letter under the provisions of this paragraph, rather than under the provisions of paragraph (d) of this section. The issuance of a ruling or determination letter will be discretionary with the Commissioner. See paragraph (e)(4) of this section as to the initial determination of the status of a newly created organization. This subdivision shall not apply to those organizations receiving an extended advance ruling under paragraph (d)(4) of this section.

(2) *Terminations under section 507 (b)(1)(B).* For the special rules applicable to the term "normally" as applied to private foundations which elect to terminate their private foundation status pursuant to the 12-month or 60-month procedure provided in section 507(b)(1)(B), see the regulations under such section.

(3) *Exclusion of unusual grants.* For purposes of applying the 4-year aggregation test for support set forth in subparagraph (1) of this paragraph, one or more contributions (including contributions made prior to Jan. 1, 1970) may be excluded from the numerator of the one-third support fraction and from the denominator of both the one-third support and one-third gross investment income fractions only if such a contribution meets the requirements of this subparagraph. The exclusion provided by this subparagraph is generally intended to apply to substantial contributions and bequests from disinterested parties, which contributions or bequests:

(i) Are attracted by reason of the publicly supported nature of the organization;

(ii) Are unusual or unexpected with respect to the amount thereof; and

(iii) Would by reason of their size, adversely affect the status of the organization as normally meeting the one-third support test for any of the applicable periods described in paragraph (c), (d), or (e) of this section.

In the case of a grant (as defined in paragraph (g) of this section) which meets the requirements of this subparagraph, if the terms of the granting instrument (whether executed before or after 1969) require that the funds be paid to the recipient organization over a period of years, the amount received by the organization each year pursuant to the terms of such grant may be excluded for such year. However, no item of gross investment income may be excluded under this subparagraph. The provisions of this subparagraph shall apply to exclude unusual grants made during any of the applicable periods described in paragraph (c), (d), or (e) of this section. See subparagraph (5)(ii) of this paragraph as to reliance by a grantee organization upon an unusual grant ruling under this subparagraph.

(4) *Determining factor.* In determining whether a particular contribution may be excluded under subparagraph (3) of this paragraph, all pertinent facts and circumstances will be taken into consideration. No single factor will necessarily be determinative. Among the factors to be considered are:

(i) Whether the contribution was made by any person (or persons standing in a relationship to such person which is described in section 4946(a)(1)(C) through (G)) who created the organization, previously contributed a substantial part of its support or endowment, or stood in a position of authority, such as a foundation manager (within the meaning of section 4946(b)), with respect to the organization. A contribution made by a person other than those persons described in this subdivision will ordinarily be given more favorable consideration than a contribution made by a person described in this subdivision.

(ii) Whether the contribution was a bequest or an inter vivos transfer. A bequest will ordinarily be given more favorable consideration than an inter vivos transfer.

(iii) Whether the contribution was in the form of cash, readily marketable securities, or assets which further the exempt purposes of the organization, such as a gift of a painting to a museum.

(iv) Except in the case of a new organization, whether, prior to the receipt of the particular contribution, the organization (*a*) has carried on an actual program of public solicitation and exempt activities and (*b*) has been able to attract a significant amount of public support.

(v) Whether the organization may reasonably be expected to attract a significant amount of public support subsequent to the particular contribution. In this connection, continued reliance on unusual grants to fund an organization's current operating expenses (as opposed to providing new endowment funds) may be evidence that the organization cannot reasonably be expected to attract future support from the general public.

(vi) Whether, prior to the year in which the particular contribution was received, the organization met the one-third support test described in subparagraph (1) of this paragraph without the benefit of any exclusions of unusual grants pursuant to subparagraph (3) of this paragraph;

(vii) Whether neither the contributor nor any person standing in a relationship to such contributor which is described in section 4946(a)(1)(C) through (G) continues directly or indirectly to exercise control over the organization;

(viii) Whether the organization has a representative governing body as described in § 1.509(a)-3(d)(3)(i); and

(ix) Whether material restrictions or conditions (within the meaning of § 1.507-2(a)(8)) have been imposed by the transferor upon the transferee in connection with such transfer.

(5) *Grantors and contributors.* (i) As to the status of grants and contributions which result in substantial and material changes in the organization (as described in subparagraph (1)(ii) of this paragraph) and which fail to meet the requirements for exclusion under subparagraph (3) of this paragraph, see the rules prescribed in subparagraph (1)(iii) of this paragraph.

(ii) Prior to the making of any grant or contribution which will allegedly meet the requirements for exclusion under subparagraph (3) of this paragraph, a potential grantee organization may request a ruling whether such grant or contribution may be so excluded. Requests for such ruling may be filed by the grantee organization with the district director. The issuance of such ruling will be at the sole discretion of the Commissioner. The organization must submit all information necessary to make a determination of the applicability of subparagraph (3) of this paragraph, including all information relating to the factors described in subparagraph (4) of this paragraph. If a favorable ruling is issued, such ruling may be relied upon by the grantor or contributor of the particular contribution in question for purposes of sections 170, 507, 545(b)(2), 556(b)(2), 642(c), 4942, 4945, 2055, 2106(a)(2), and 2522 and by the grantee organization for purposes of subparagraph (3) of this paragraph.

(6) *Examples.* The application of the principles set forth in this paragraph is illustrated by the examples set forth below. For purposes of these examples, the term "general public" is defined as persons other than disqualified persons and other than persons from whom the foundation received gross receipts in excess of the greater of $5,000 or 1 percent of its support in any taxable year, the term "gross investment income" is

as defined in section 509(e), and the term "gross receipts" is limited to receipts from activities which are not unrelated trade or business (within the meaning of section 513).

Example (1). For the years 1970 through 1973, X, an organization exempt under section 501(c)(3) which makes scholarship grants to needy students of a particular city, received support from the following sources:

1970	
Gross receipts (general public)	$35,000
Contributions (substantial contributors)	36,000
Gross investment income	29,000
Total support	100,000
1971	
Gross receipts (general public)	34,000
Contributions (substantial contributors)	35,000
Gross investment income	31,000
Total support	100,000
1972	
Gross receipts (general public)	35,000
Contributions (substantial contributors)	30,000
Gross investment income	35,000
Total support	100,000
1973	
Gross receipts (general public)	30,000
Contributions (substantial contributors)	39,000
Gross investment income	31,000
Total support	100,000

In applying section 509(a)(2) to the taxable year 1974 on the basis of subparagraph (1)(i) of this paragraph, the total amount of support from gross receipts from the general public ($134,000) for the period 1970 through 1973 was more than one-third, and the total amount of support from gross investment income ($126,000) was less than one-third, of its total support for the same period ($400,000). For the taxable years 1974 and 1975, X is therefore considered "normally" to receive more than one-third of its support from the public sources described in section 509(a)(2)(A) and less than one-third of its support from gross investment income referred to in section 509(a)(2)(B) since due to the pattern of X's support, there are no substantial and material changes in the sources of the organization's support in these years. The fact that X received less than one-third of its support from section 509(a)(2)(A) sources in 1973 and more than one-third of its support from gross investment income in 1972 does not affect its status since it met the "normally" test over a 4-year period.

Example (2). Assume the same facts as in example (1) except that in 1973 X also received an unexpected bequest of $50,000 from A, an elderly widow who was interested in encouraging the work of X, but had no other relationship to it. Solely by reason of the bequest, A became a disqualified person. X used the bequest to create five new scholarships. Its operations otherwise remained the same. Under these circumstances X could not meet the 4-year support test since the total amount received from gross receipts from the general public ($134,000) would not be more than one-third of its total support for the 4-year period ($450,000). Since A is a disqualified person, her bequest cannot be included in the numerator of the one-third support test under section 509(a)(2)(A). However, based on the factors set forth in subparagraph (4) of this paragraph, A's bequest may be excluded as an unusual grant under subparagraph (3) of this paragraph. Therefore, X will be considered to have met the support test for the taxable years 1974 and 1975.

Example (3). In 1970, Y, an organization described in section 501(c)(3), was created by A, the holder of all the common stock in M corporation, B, A's wife, and C, A's business associate. Each of the three creators made small cash contributions to Y to enable it to begin operations. The purpose of Y was to sponsor and equip athletic teams for underprivileged children in the community. Between 1970 and 1973, Y was able to raise small amounts of contributions through fund raising drives and selling admission to some of the sponsored sporting events. For its first year of operations, it was determined that Y was excluded from the definition of "private foundation" under the provisions of section 509(a)(2). A made small contributions to Y from time to time. At all times, the operations of Y were carried out on a small scale, usually being restricted to the sponsorship of two to four baseball teams of underprivileged children. In 1974, M recapitalized and created a first and second class of 6 percent nonvoting preferred stock, most of which was held by A and B. A then contributed 49 percent of his common stock in M to Y. A, B, and C continued to be active participantts in the affairs of Y from its creation through 1974. A's contribution of M's common stock was substantial and constituted 90 percent of Y's total support for 1974. Although Y could satisfy the one-third support test on the basis of the four taxable years prior to 1974, a combination of the facts and circumstances described in subparagraph (4) of this paragraph preclude A's contribution of M's common stock in 1974 from being excluded as an unusual grant under subparagraph (3) of this paragraph. A's contribution in 1974 constituted a substantial and material change in Y's sources of support within the meaning of subparagraph (1)(ii) of this paragraph and on the basis of the 5-year period prescribed in subparagraph (1)(ii) of this paragraph (1970 to 1974), Y would not be considered as "normally" meeting the one-third support test described in paragraph (a)(2) of this section for the taxable years 1974 (the current taxable year) and 1975 (the immediately succeeding taxable year).

Example (4). M, an organization described in section 501(c)(3), was organized in 1971 to promote the appreciation of ballet in a particular region of the United States. Its principal activities will consist of erecting a theater for the performance of ballet and the organization and operation of a ballet company. The governing body of M consists of 9 prominent unrelated citizens residing in the region who have either an expertise in ballet or a strong interest in encouraging appreciation of the art form. In order to provide sufficient capital for M to commence its activities, X, a private foundation, makes a grant of $500,000 in cash to M. Although A, the creator of X, is one of the nine members of M's governing body, was one of M's original founders, and continues to lend his prestige to M's activities and fund raising efforts, A does not, directly or indirectly, exercise any control over M. By the close of its first taxable year, M has also received a significant amount of support from a number of smaller contributions and pledges from other members of the general public. Upon the opening of its first season of ballet performances, M expects to charge admission to the general public. Under the above circumstances, the grant by X to M may be excluded as an unusual grant under subparagraph (3) of this paragraph for purposes of determining whether M meets the one-third support test under section 509(a)(2). Although A was a founder and member of the governing body of M, X's grant may be excluded.

Example (5). Assume the same facts as example (4). In 1974, during M's third season of operations, B, a widow, passed away and bequeathed $4 million to M. During 1971 through 1973, B had made small contributions to M, none exceeding $10,000 in any year. During 1971 through 1974, M had received approximately $550,000 from receipts for admissions and contributions from the general public. At the time of B's death, no person standing in a relationship to B described in section 4946(a)(1)(C) through (G) was a member of M's governing body. B's bequest was in the form of cash and readily marketable securities. The only condition placed upon the bequest was that it be used by M to advance the art of ballet. Under the above circumstances, the bequest of B to M may be excluded as an unusual grant under subparagraph (3) of this paragraph for purposes of determining whether M meets the one-third support test under section 509(a)(2).

Example (6). O is a research organization described in section 501(c)(3). O was created by A in 1971 for the purpose of carrying on economic studies primarily through persons receiving grants from O and engaging in the sale of economic publications. O's five-member governing body consists of A, A's sons, B, and C, and two unrelated economists. In 1971, A made a contribution to O of $100,000 to help establish the organization. During 1971 through 1974 A made annual contributions to O averaging $20,000 a year. During the same period, O received annual contributions from members of the general public averaging $15,000 per year and receipts from the sale of its publications averaging $50,000 per year. In 1974, B made an inter vivos contribution to O of $600,000 in cash and readily marketable securities. Under the above circumstances, B's contribution cannot be excluded as an unusual grant under subparagraph (3) of this paragraph for purposes of determining whether O meets the one-third support test.

Example (7). P is an educational organization described in section 501(c)(3). P was created in 1971. The governing body of P has 9 members, consisting of A, a prominent civic leader and 8 other unrelated civic leaders and educators in the community, who also participated in the creation of P. During 1971 through 1974, the principal source of income for P has been receipts from the sale of its educational periodicals. These sales have amounted to $200,000 for this period. Small contributions amounting to $50,000 have also been received during the same period from members of the governing body, including A, as well as other members of the general public. In 1974 A contributed $750,000 of the nonvoting stock of Y, a closely held corporation. A retained a substantial portion of the voting stock of Y. By a majority vote, the governing body decided to retain the Y stock for a period of at least 5 years. Under the above circumstances, A's contribution of the Y stock cannot be excluded as an unusual grant under subparagraph (3) of this paragraph for purposes of determining whether P meets the one-third support test.

(d) *Advance rulings to newly created organizations*—(1) *In general.* A ruling or determination letter that an organization is described in section 509(a)(2) will not be issued to a newly created organization prior to the close of its first taxable year consisting of at least 8 months. However, such organization may request a ruling or determination letter that it will be treated as a section 509(a)(2) organization for its first 2 taxable years (or its first 3 taxable years, if its first taxable year consists of less than 8

months). For purposes of this section such 2- or 3-year period, whichever is applicable, shall be referred to as the advance ruling period. Such an advance ruling or determination letter may be issued if the organization can reasonably be expected to meet the requirements of paragraph (a) of this section during the advance ruling period. The issuance of a ruling or determination letter will be discretionary with the Commissioner.

(2) *Basic consideration.* In determining whether an organization "can reasonably be expected" (within the meaning of subparagraph (1) of this paragraph) to meet the one-third support test under section 509(a)(2)(A) and the one-third gross investment income test under section 509(a)(2)(B) described in paragraph (a) of this section for its advance ruling period or extended advance ruling period as provided in subparagraph (4) of this paragraph, if applicable, the basic consideration is whether its organizational structure, proposed programs or activities, and intended method of operation are such as to attract the type of broadly based support from the general public, public charities, and governmental units which is necessary to meet such tests. While the factors which are relevant to this determination, and the weight accorded to each of them, may differ from case to case, depending on the nature and functions of the organization, a favorable determination will not be made where the facts indicate that an organization is likely during its advance or extended advance ruling period to receive less than one-third of its support from permitted sources (subject to the limitations of paragraph (b) of this section) or to receive more than one-third of its support from gross investment income.

(3) *Factors taken into account.* All pertinent facts and circumstances shall be taken into account under subparagraph (2) of this paragraph in determining whether the organizational structure, programs or activities, and method of operation of an organization are such as to enable it to meet the tests under section 509(a)(2) for its advance or extended advance ruling period. Some of the pertinent factors are:

(i) Whether the organization has or will have a governing body which is comprised of public officials, or individuals chosen by public officials acting in their capacity as such, of persons having special knowledge in the particular field or discipline in which the organization is operating, of community leaders, such as elected officials, clergymen, and educators, or, in the case of a membership organization, of individuals elected pursuant to the organization's governing instrument or bylaws by a broadly based membership. This characteristic does not exist if the membership of the organization's governing body is such as to indicate that it represents the personal or private interests of disqualified persons, rather than the interests of the community or the general public.

(ii) Whether a substantial portion of the organization's initial funding is to be provided by the general public, by public charities, or by government grants, rather than by a limited number of grantors or contributors who are disqualified persons with respect to the organization. The fact that the organization plans to limit its activities to a particular community or region or to a special field which can be expected to appeal to a limited number of persons will be taken into consideration in determining whether those persons providing the initial support for the organization are representative of the general public. On the other hand, the subsequent sources of funding which the organization can reasonably expect to receive after it has become established and fully operational will also be taken into account.

(iii) Whether a substantial proportion of the organization's initial funds are placed, or will remain, in an endowment, and whether the investment of such funds is unlikely to result in more than one-third of its total support being received from gross investment income.

(iv) In the case of an organization which carries on fund-raising activities, whether the organization has developed a concrete plan for solicitation of funds from the general public on a community or area-wide basis; whether any steps have been taken to implement such plan; whether any firm commitments of financial or other support have been made to the organization by civic, religious, charitable, or similar groups within the community; and whether the organization has made any commitments to, or established any working relationships with, those organizations or classes of persons intended as the future recipients of its funds.

(v) In the case of an organization which carries on community services, such as slum clearance and employment opportunities, whether the organization has a concrete program to carry out its work in the community; whether any steps have been taken to implement that program; whether it will receive any part of its funds from a public charity or governmental agency to which it is in some way held accountable as a condition of the grant or contribution; and whether it has enlisted the sponsorship or support of other civic or community leaders involved in community service programs similar to those of the organization.

(vi) In the case of an organization which carries on educational or other exempt activities for, or on behalf of, members, whether the solicitation for dues-paying members is designed to enroll a substantial number of persons in the community, area, profession, or field of special interest (depending on the size of the area and the nature of the organization's activities); whether membership dues for individual (rather than institutional) members have been fixed at rates designed to make membership available to a broad cross-section of the public rather than to restrict membership to a limited number of persons; and whether the activities of the organization will be likely to appeal to persons having some broad common interest or purpose, such as educational activities in the case of alumni associations, musical activities in the case of symphony societies, or civic affairs in the case of parent-teacher associations.

(vii) In the case of an organization which provides goods, services, or facilities, whether the organization is or will be required to make its services, facilities, performances, or products available (regardless of whether a fee is charged) to the general public, public charities, or governmental units, rather than to a limited number of persons or organizations; whether the organization will avoid executing contracts to perform services for a limited number of firms or governmental agencies or bureaus; and whether the service to be provided is one which can be expected to meet a special or general need among a substantial portion of the general public.

(4) *Extension of advance ruling period.* (i) The advance ruling period described in subparagraph (1) of this paragraph shall be extended for a period of 3 taxable years after the close of the unextended advance ruling period if the organization so requests, but only if such organization's request accompanies its request for an advance ruling and is filed with a consent under section 6501(c)(4) to the effect that the period of limitation upon assessment under section 4940 for any taxable year within the extended advance ruling period shall not expire prior to 1 year after the date of the expiration of the time prescribed by law for the assessment of a deficiency for the last taxable year within the extended advance ruling period. An organization's extended advance ruling period is 5 taxable years if its first taxable year consists of at least 8 months, or is 6 taxable years if its first taxable year is less than 8 months.

(ii) Notwithstanding subdivision (i) of this subparagraph, an organization which has received or applied for an advance ruling prior to October 16, 1972, may file its request for the 3-year extension within 90 days from such date, but only if it files the consents required in this section.

(iii) See paragraph (e)(4)(i)(*d*) of this section for the effect upon the initial determination of status of an organization which receives an advance ruling for an extended advance ruling period.

(e) *Status of newly created organizations*—(1) *Advance or extended advance ruling.* This subparagraph shall apply to a newly created organization which has received a ruling or determination letter under paragraph (d) of this section that it be treated as a section 509(a)(2) organization for its advance or extended advance ruling period. So long as such an organization's ruling or determination letter has not been terminated by the Commissioner before the expiration of the advance or extended advance ruling period, then whether or not such organization has satisfied the requirements

of paragraph (a) of this section during such advance or extended advance ruling period, such an organization will be treated as an organization described in section 509(a)(2) in accordance with subparagraphs (2) and (3) of this paragraph, both for purposes of the organization and any grantor or contributor to such organization.

(2) *Reliance period.* Except as provided in subparagraphs (1) and (3) of this paragraph, an organization described in subparagraph (1) of this paragraph will be treated as an organization described in section 509(a)(2) for all purposes other than section 507(d) and 4940 for the period beginning with its inception and ending 90 days after its advance or extended advance ruling period. Such period will be extended until a final determination is made of such an organization's status only if the organization submits, within the 90-day period, information needed to determine whether it meets the requirements of paragraph (a) of this section for its advance or extended advance ruling period (even if such organization fails to meet the requirements of such paragraph (a)). However, since this subparagraph does not apply to section 4940, if it is subsequently determined that the organization was a private foundation from its inception, then the tax imposed by section 4940 shall be due without regard to the advance ruling or determination letter. Consequently, if any amount of tax under section 4940 in such a case is not paid on or before the last date prescribed for payment, the organization is liable for interest in accordance with section 6601. However, since any failure to pay such tax during the period referred to in this subparagraph is due to reasonable cause, the penalty under section 6651 with respect to the tax imposed by section 4940 shall not apply.

(3) *Grantors or contributors.* If a ruling or determination letter is terminated by the Commissioner prior to the expiration of the period described in subparagraph (2) of this paragraph, for purposes of sections 170, 507, 545(b)(2), 556(b)(2), 642(c), 4942, 4945, 2055, 2106(a)(2), and 2522 the status of grants or contributions with respect to grantors or contributors to such organizations will not be affected until notice of change of status of such organization is made to the public (such as by publication of the Internal Revenue Bulletin). The preceding sentence shall not apply, however, if the grantor or contributor was responsible for, or aware of, the act or failure to act that resulted in the organization's loss of classification under section 509(a)(2) or acquired knowledge that the Internal Revenue Service had given notice to such organization that it would be deleted from such classification. See, however, § 1.509(a)-3(c)(5)(ii) for the procedures to be followed to protect the grantor or contributor from being considered responsible for, or aware of, the act or failure to act resulting in the grantee's loss of classification under section 509(a)(2).

(4) *Initial determination of status*—(i) *New organizations.* (*a*) The initial determination of status of a newly created organization is the first determination (other than by issuance of an advance ruling or determination letter under paragraph (d) of this section) that the organization will be considered as "normally" meeting the requirements of paragraph (a) of this section for a period beginning with its first taxable year.

(*b*) In the case of a new organization whose first taxable year is at least 8 months, except as provided for in subdivision (i)(*d*) of this subparagraph, the initial determination of status shall be based on a computation period of either the first taxable year or the first and second taxable years.

(*c*) In the case of a new organization whose first taxable year is less than 8 taxable months, except as provided for in subdivision (i)(*d*) of this subparagraph, the initial determination of status shall be based on a computation period of either the first and second taxable years or the first, second and third taxable years.

(*d*) In the case of an organization which has received a ruling or determination letter for an extended advance ruling period under paragraph (d)(4) of this section, the initial determination of status shall be based on a computation period of all of the taxable years in the extended advance ruling period. However, where the ruling or determination letter for an extended advance ruling period under paragraph (d)(4) of this section is terminated by the Commissioner prior to the expiration of the period described in subparagraph (2) of this paragraph, the initial determination of status shall be based on a computation period of the period provided for in (*b*) or (*c*) of this subdivision or, if greater, the number of years to which the advance ruling applies.

(*e*) An initial determination that an organization will be considered as "normally" meeting the requirements of paragraph (a) of this section shall be effective for each taxable year in the computation period plus (except as provided by paragraph (c)(1)(ii) of this section relating to material changes in sources of support) the two taxable years immediately succeeding the computation period. Therefore, in the case of an organization referred to in (*b*) of this subdivision to which paragraph (c)(1)(ii) of this section does not apply, with respect to its first, second, and third taxable years, such an organization shall be described in section 509(a)(2) if it meets the requirements of paragraph (a) of this section for either its first taxable year or for its first and second taxable years on an aggregate basis. In addition, if it meets the requirements of paragraph (a) of this section for its first and second taxable years it shall be described in section 509(a)(2) for its fourth taxable year. Once an organization is considered as "normally" meeting the requirements of paragraph (a) for a period specified under this subdivision, paragraph (c)(1)(i), (ii), or (iv) of this section shall apply.

(*f*) The provisions of this subdivision may be illustrated by the following examples:

Example (1). X, a calendar year organization described in section 501(c)(3), is created in February 1972 for the purpose of displaying African art. The support X received from the public in 1972 satisfies the one-third support and gross investment income tests described in section 509(a)(2) for its first taxable year, 1972. X may therefore get an initial determination that it meets the requirements of paragraph (a) of this section for its first taxable year beginning in February 1972 and ending on December 31, 1972. This determination will be effective for taxable years 1972, 1973, and 1974.

Example (2). Assume the same facts as in example (1) except that X also receives a substantial contribution from one individual in 1972 which is not excluded from the denominator of the one-third support fraction described in section 509(a)(2) by reason of the unusual grant provision of subparagraph (c)(3) of this section. Because of this substantial contribution, X fails to satisfy the one-third support test over its first taxable year, 1972. However, the support received from the public over X's first and second taxable years in the aggregate satisfies the one-third support and gross investment income tests. X may therefore get an initial determination that it meets the requirements of paragraph (a) of this section for its first and second taxable years in the aggregate beginning in February 1972 and ending on December 31, 1973. This determination will be effective for taxable years 1972, 1973, 1974, and 1975.

Example (3). Y, a calendar year organization described in section 501(c)(3), is created in July 1972 for the encouragement of the musical arts. Y requests and receives an extended advance ruling period of five full taxable years plus its initial short taxable year of 6 months under subparagraph (d)(4) of this section. The extended advance ruling period begins in July 1972 and ends on December 31, 1977. The support received from the public over Y's first through sixth taxable years in the aggregate will satisfy the one-third support and gross investment income tests described in section 509(a)(2). Therefore, Y in 1978 may get an initial determination that it meets the requirements of paragraph (a) of this section in the aggregate over all the taxable years in its extended advance ruling period beginning in July 1972 and ending on December 31, 1977. This determination will be effective for taxable years 1972 through 1979.

Example (4). Assume the same facts as in example (3) except that the ruling for the extended advance ruling period is terminated prospectively at the end of 1975, so that Y may not rely upon such ruling for 1976 or any succeeding year. The support received from the public over Y's first through fourth taxable years (1972 through 1975) will not satisfy the one-third support and gross investment income tests described in section 509(a)(2). Because the ruling was terminated, the computation period for Y's initial determination of status is the period 1972 through 1975. Since Y has not met the requirements of paragraph (a) of this section for such computation period, Y is not described in section 509(a)(2) for purposes of its initial determination of status. If Y is not described in section 509(a)(1), (3), or (4), then Y is a private foundation. As of 1976, Y shall be treated as a private foundation for all purposes (except as provided in

subparagraph (3) of this paragraph with respect to grantors and contributors), and as of July 1972 for purposes of the tax imposed by section 4940 and for purposes of section 507(d) (relating to aggregate tax benefit).

(ii) *Advance rulings.* Unless a newly created organization has obtained a ruling or determination letter under paragraph (d) of this section that it be treated as a section 509(a)(2) organization for its advance or extended advance ruling period, it can not rely upon the possibility it will meet the requirements of paragraph (a) of this section for a taxable year which begins before the close of either applicable computation period provided for in subdivision (i) (*b*) or (*c*) of this subparagraph. Therefore, an organization which has not obtained such a ruling or determination letter, in order to avoid the risks associated with subsequently being determined to be a private foundation, may comply with the rules applicable to private foundations, and may pay, for example, the tax imposed by section 4940. In that event, if the organization subsequently meets the requirements of paragraph (a) for either applicable computation period, it shall be treated as a section 509(a)(2) organization from its inception, and, therefore, any tax imposed under chapter 42 shall be refunded and section 509(b) shall not apply.

(iii) *Penalties.* If a newly created organization fails to obtain a ruling or determination letter under paragraph (d) of this section, and fails to meet the requirements of paragraph (a) of this section for the first applicable computation period provided for in subdivision (i) (*b*) or (*c*) of this subparagraph, see section 6651 for penalty for failure to file return and pay tax.

(iv) *Examples.* This subparagraph may be illustrated by the following examples:

Example (1). On January 1, 1972, A contributes $100,000 to X, an organization described in section 501(c)(3) which he created on such date. X is not described in section 509(a) (1), (3), or (4). X's governing instrument does not contain the provisions referred to in section 508(e). Therefore, A is not entitled to a deduction under section 170 for the $100,000 contribution by reason of section 508(d)(2)(A) unless X is described in section 509(a)(2). If X meets the requirements of section 509(a)(2) for 1972 and 1973 on an aggregate basis, then whether or not X met the requirements of section 509(a)(2) for 1972 based on the support received in 1972, X would not have to meet the governing instrument requirements of section 508(e), and section 508(d)(2)(A) would not prevent A from claiming the deduction under section 170 for 1972. If X fails to meet the requirements of section 509(a)(2) for both 1972 and, on an aggregate basis, 1972 and 1973, X would lose its exempt status under section 508(e) for both 1972 and 1973, and A would be barred by section 508(d)(2)(A) from claiming a deduction for the $100,000 contribution to X.

Example (2). Assume the same facts as in example (1) except that X's governing instrument contains provisions which meet the requirements of section 508 (e) in the event X is a private foundation, but do not apply to X in the event X is not a private foundation. Whether or not X meets the requirements of section 509(a)(2) for 1972 based on the support received in 1972 or 1972 and 1973 on an aggregate basis, since X meets the requirements of section 508(e), section 508(d)(2)(A) would not bar A from claiming a deduction under section 170 for 1972 for the contribution to X.

(f) *Gifts and contributions distinguished from gross receipts*—(1) *In general.* In determining whether an organization normally receives more than one-third of its support from permitted sources, all "gifts" and "contributions" (within the meaning of section 509(a)(2)(A)(i)) received from permitted sources, are includible in the numerator of the support fraction in each taxable year. However, "gross receipts" (within the meaning of section 509(a)(2)(A)(ii)) from admissions, sales of merchandise, performance of services, or furnishing of facilities, in an activity which is not an unrelated trade or business, are includible in the numerator of the support fraction in any taxable year only to the extent that such gross receipts do not exceed the limitation with respect to the greater of $5,000 or 1 percent of support which is described in paragraph (b) of this section. The terms "gifts" and "contributions" shall, for purposes of section 509(a)(2), have the same meaning as such terms have under section 170(c) and also include bequests, legacies, devises, and transfers within the meaning of section 2055 or 2106(a)(2). Thus, for purposes of section 509(a)(2)(A), any payment of money or transfer of property without adequate consideration shall be considered a "gift" or "contribution." Where payment is made or property transferred as consideration for admissions, sales of merchandise, performance of services, or furnishing of facilities to the donor, the status of the payment or transfer under section 170(c) shall determine whether and to what extent such payment or transfer constitutes a "gift" or "contribution" under section 509(a)(2)(A)(i) as distinguished from "gross receipts" from related activities under section 509(a)(2)(A)(ii).

(2) *Valuation of property.* For purposes of section 509(a)(2), the amount includible in computing support with respect to gifts, grants or contributions of property or use of such property shall be the fair market or rental value of such property at the date of such gift or contribution.

(3) *Example.* The provisions of this paragraph may be illustrated by the following example:

Example. P is a local agricultural club described in section 501(c)(3). In order to encourage interest and proficiency by young people in farming and raising livestock, it makes awards at its annual fair for outstanding specimens of produce and livestock. Most of these awards are cash or other property donated by local businessmen. When the awards are made, the donors are given recognition for their donations by being identified as the donor of the award. The recognition given to donors is merely incidental to the making of the award to worthy youngsters. For these reasons, the donations will constitute "contributions" for purposes of section 509(a)(2)(A)(i). The amount includible in computing support with respect to such contributions is equal to the cash contributed or the fair market value of other property on the dates contributed.

(g) *Grants distinguished from gross receipts*—(1) *In general.* In determining whether an organization normally receives more than one-third of its support from public sources, all "grants" (within the meaning of section 509(a)(2)(A)(i)) received from permitted sources are includible in full in the numerator of the support fraction in each taxable year. However, "gross receipts" (within the meaning of section 509(a)(2)(A)(ii)) from admissions, sales of merchandise, performance of services, or furnishing of facilities, in an activity which is not an unrelated trade or business, are includible in the numerator of the support fraction in any taxable year only to the extent that such gross receipts do not exceed the limitation with respect to the greater of $5,000 or 1 percent of support which is described in paragraph (b) of this section. A grant is normally made to encourage the grantee organization to carry on certain programs or activities in furtherance of its exempt purposes. It may contain certain terms and conditions imposed by the grantor to insure that the grantee's programs or activities are conducted in a manner compatible with the grantor's own programs and policies and beneficial to the public. The grantee may also perform a service or produce a work product which incidentally benefits the grantor. Because of the imposition of terms and conditions, the frequent similarity of public purposes of grantor and grantee, and the possibility of benefit resulting to the grantor, amounts received as grants "for" the carrying on of exempt activities are sometimes difficult to distinguish from amounts received as gross receipts "from" the carrying on of exempt activities. The fact that the agreement, pursuant to which payment is made, is designated a "contract" or a "grant" is not controlling for purposes of classifying the payment under section 509(a)(2).

(2) *Distinguishing factors.* For purposes of section 509(a)(2)(A)(ii), in distinguishing the term "gross receipts" from the term "grants," the term "gross receipts" means amounts received from an activity which is not an unrelated trade or business, if a specific service, facility, or product is provided to serve the direct and immediate needs of the payor, rather than primarily to confer a direct benefit upon the general public. In general, payments made primarily to enable the payor to realize or receive some economic or physical benefit as a result of the service, facility, or product obtained will be treated as "gross receipts" with respect to the payee. The fact that a profitmaking organization would, primarily for its own economic or physical betterment, contract with a nonprofit organization for the rendition of a comparable service, facility or product from such organization constitutes evidence that any payments received by the nonprofit payee organization (whether from a governmental unit, a

nonprofit or a profitmaking organization) for such services, facilities or products are primarily for the economic or physical benefit of the payor and would therefore be considered "gross receipts," rather than "grants" with respect to the payee organization. For example, if a nonprofit hospital described in section 170(b)(1)(A)(iii) engages an exempt research and development organization to develop a more economical system of preparing food for its own patients and personnel, and it can be established that a hospital operated for profit might engage the services of such an organization to perform a similar benefit for its economic betterment, such fact would constitute evidence that the payments received by the research and development organization constitute "gross receipts," rather than "grants." Research leading to the development of tangible products for the use or benefit of the payor will generally be treated as a service provided to serve the direct and immediate needs of the payor, while basic research or studies carried on in the physical or social sciences will generally be treated as primarily to confer a direct benefit upon the general public.

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

Example (1). M, a nonprofit research organization described in section 501(c)(3), engages in some contract research. It receives funds from the government to develop a specific electronic device needed to perfect articles of space equipment. The initiative for the project came solely from the government. Furthermore, the government could have contracted with profitmaking research organizations which carry on similar activities. The funds received from the government for this project are gross receipts and do not constitute "grants" within the meaning of section 509(a)(2)(A)(i). M provided a specific product at the government's request and thus was serving the direct and immediate needs of the payor within the meaning of subparagraph (2) of this paragraph.

Example (2). N is a nonprofit educational organization described in section 501(c)(3). Its principal activity is to operate institutes to train employees of various industries in the principles of management and administration. The government pays N to set up a special institute for certain government employees and to train them over a 2-year period. Management training is also provided by profitmaking organizations. The funds received are included as "gross receipts." The particular services rendered were to serve the direct and immediate needs of the government in the training of its employees within the meaning of subparagraph (2) of this paragraph.

Example (3). The Office of Economic Opportunity makes a community action program grant to O, an organization described in section 509(a)(1). O serves as a "delegate agency" of OEO for purposes of financing a local community action program. As part of this program, O signs an agreement with X, an educational and charitable organization described in section 501(c)(3), to carry out a housing program for the benefit of poor families. Pursuant to this agreement, O pays X out of the funds provided by OEO to build or rehabilitate low income housing and to provide advisory services to other nonprofit organizations in order for them to meet similar housing objectives, all on a nonprofit basis. Payments made from O to X constitute "grants" for purposes of section 509(a)(2)(A) because such program is carried on primarily for the direct benefit of the community.

Example (4). P is an educational institute described in section 501(c)(3). It carries on studies and seminars to assist institutions of higher learning. It receives funds from the government to research and develop a program of black studies for institutions of higher learning. The performance of such a service confers a direct benefit upon the public. Because such program is carried on primarily for the direct benefit of the public, the funds are considered a "grant."

Example (5). Q is an organization described in section 501(c)(3) which carries on medical research. Its efforts have primarily been directed toward cancer research. Q sought funds from the government for a particular project being contemplated in connection with its work. In order to encourage its activities, the government gives Q the sum of $25,000. The research project sponsored by government funds is primarily to provide direct benefit to the general public, rather than to serve the direct and immediate needs of the government. The funds are therefore considered a "grant."

Example (6). R is a public service organization described in section 501(c)(3) and composed of State and local officials involved in public works activities. The Bureau of Solid Waste, Management of the Department of Health, Education, and Welfare paid R to study the feasibility of a particular system for disposal of solid waste. Upon completion of the study, R was required to prepare a final report setting forth its findings and conclusions. Although R is providing the Bureau of Solid Waste Management with a final report, such report is the result of basic research and study in the physical sciences and is primarily to provide direct benefit to the general public by serving to further the general functions of government, rather than a direct and immediate governmental need. The funds paid to R are therefore a "grant" within the meaning of section 509(a)(2).

Example (7). R is the public service organization referred to in example (6). W, a municipality described in section 170(c)(1), decides to construct a sewage disposal plant. W pays R to study a number of possible locations for such plant and to make recommendations to W, based upon a number of factors, as to the best location. W instructed R that in making its recommendation, primary consideration should be given to minimizing the costs of the project to W. Since the study commissioned by W was primarily directed toward producing an economic benefit to W in the form of minimizing the costs of its project, the services rendered are treated as serving W's direct and immediate needs and are includible as "gross receipts" by R.

Example (8). S in an organization described in section 501(c)(3). It was organized and is operated to further African development and strengthen understanding between the United States and Africa. To further these purposes, S receives funds from the Agency for International Development and the Department of State under which S is required to carry out the following programs: Selection, transportation, orientation, counseling, and language training of African students admitted to American institutions of higher learning; payment of tuition, other fees, and maintenance of such students; and operation of schools and vocational training programs in underdeveloped countries for residents of those countries. Since the programs carried on by S are primarily to provide direct benefit to the general public, all of the funds received by S from the Federal agencies are considered "grants" within the meaning of section 509(a)(2).

(h) *Definition of membership fees*—(1) *General rule.* For purposes of section 509(a)(2), the fact that a membership organization provides services, admissions, facilities, or merchandise to its members as part of its overall activities will not, in itself, result in the classification of fees received from members as "gross receipts" rather than "membership fees." If an organization uses membership fees as a means of selling admissions, merchandise, services, or the use of facilities to members of the general public who have no common goal or interest (other than the desire to purchase such admissions, merchandise, services, or use of facilities), then the income received from such fees shall not constitute "membership fees" under section 509(a)(2)(A)(i), but shall, if from a related activity, constitute "gross receipts" under section 509(a)(2)(A)(ii). On the other hand, to the extent the basic purpose for making the payment is to provide support for the organization rather than to purchase admissions, merchandise, services, or the use of facilities, the income received from such payment shall constitute "membership fees."

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

Example (1). M is a symphony society described in section 501(c)(3). Its primary purpose is to support the local symphony orchestra. The organization has three classes of membership. Contributing members pay annual dues of $10, sustaining members pay $25, and honorary members pay $100. The dues are placed in a maintenance fund which is used to provide financial assistance in underwriting the orchestra's annual deficit. Members have the privilege of purchasing subscriptions to the concerts before they go on sale to the general public, but must pay the same price as any other member of the public. They also are entitled to attend a number of rehearsals each season without charge. Under these circumstances, M's receipts from members constitute "membership fees" for purposes of section 509(a)(2)(A)(i).

Example (2). N is a theater association described in section 501(c)(3). Its purpose is to support a repertory company in the community in order to make live theatrical performances available to the public. The organization sponsors six plays each year. Members of the organization are entitled to a season subscription to the plays. The fee paid as dues approximates the retail price of the six plays, less a 10-percent discount. Tickets to each performance are also sold directly to the general public. The organization also holds a series of lectures on the theater which members may attend. Under these circumstances, the fees paid by members as dues will be considered "gross receipts" from a related activity. Although the fees are designated as membership fees, they are actually admissions to a series of plays.

(i) *"Bureau" defined*—(1) *In general.* The term "any bureau or similar agency of a governmental unit" (within the meaning of section 509(a)(2)(A)(ii)), refers to a specialized operating unit of the executive, judicial, or legislative

branch of government where business is conducted under certain rules and regulations. Since the term "bureau" refers to a unit functioning at the operating, as distinct from the policymaking, level of government, it is normally descriptive of a subdivision of a department of government. The term "bureau," for purposes of section 509(a)(2)(A)(ii), would therefore not usually include those levels of government which are basically policymaking or administrative, such as the office of the Secretary or Assistant Secretary of a department, but would consist of the highest operational level under such policymaking or administrative levels. Each subdivision of a larger unit within the Federal Government, which is headed by a Presidential appointee holding a position at or above Level V of the Executive Schedule under 5 U.S.C. 5316, will normally be considered an administrative or policymaking, rather than an operating, unit. Amounts received from a unit functioning at the policymaking or administrative level of government will be treated as received from one bureau or similar agency of such unit. Units of a governmental agency above the operating level shall be aggregated and considered a separate bureau for this purpose. Thus, an organization receiving gross receipts from both a policymaking or administrative unit and an operational unit of a department will be treated as receiving gross receipts from two "bureaus" within the meaning of section 509(a)(2)(A)(ii). For purposes of this subparagraph, the Departments of Air Force, Army, and Navy are separate departments and each is considered as having its own policymaking, administrative, and operating units.

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

Example (1). The Bureau of Health Insurance is considered a "bureau" within the meaning of section 509(a)(2)(A)(ii). It is a part of the Department of Health, Education, and Welfare, whose Secretary performs a policymaking function, and is under the Social Security Administration, which is basically an administrative unit. The Bureau of Health Insurance is in the first operating level within the Social Security Administration. Similarly, the National Cancer Institute would be considered a "bureau," as it is an operating part of the National Institutes of Health within the Department of Health, Education, and Welfare.

Example (2). The Bureau for Africa and the Bureau for Latin America are considered "bureaus" within the meaning of section 509(a)(2)(A)(ii). Both are separate operating units under the Administrator of the Agency for International Development, a policymaking official. If an organization received gross receipts from both of these bureaus, the amount of gross receipts received from each would be subject to the greater of $5,000 or 1 percent limitation under section 509(a)(2)(A)(ii).

Example (3). The Bureau of International Affairs of the Civil Aeronautics Board is considered a "bureau" within the meaning of section 509(a)(2)(A)(ii). It is an operating unit under the administrative office of the Executive Director. The subdivisions of the Bureau of International Affairs are Geographic Areas and Project Development Staff. If an organization received gross receipts from these subdivisions, the total gross receipts from these subdivisions would be considered gross receipts from the same "bureau," the Bureau of International Affairs, and would be subject to the greater of $5,000 or 1 percent limitation under section 509(a)(2)(A)(ii).

Example (4). The Department of Mental Health, a State agency which is an operational part of State X's Department of Public Health, is considered a "bureau." The Department of Public Health is basically an administrative agency and the Department of Mental Health is at the first operational level within it.

Example (5). The Aeronautical Systems Division of the Air Force Systems Command, and other units on the same level, are considered separate "bureaus" with the meaning of section 509(a)(2)(A)(ii). They are part of the Department of the Air Force which is a separate department for this purpose, as are the Army and Navy. The Secretary and the Under Secretary of the Air Force perform the policymaking function, the Chief of Staff and the Air Force Systems Command are basically administrative, having a comprehensive complement of staff functions to provide administration for the various divisions. The Aeronautical Systems Division and other units on the same level are thus the first operating level, as evidenced by the fact that they are the units that let contracts and perform the various operating functions.

Example (6). The Division of Space Nuclear Systems, the Division of Biology and Medicine, and other units on the same level within the Atomic Energy Commission are each separate "bureaus" within the meaning of section 509(a)(2)(A)(ii). The Commissioners (which make up the Commission) are the policymakers. The general manager and the various assistant general managers perform the administrative function. The various divisions perform the operating function as evidenced by the fact that each has separate programs to pursue and contracts specifically for these various programs.

(j) *Grants from public charities*—(1) *General rule.* For purposes of the one-third support test in section 509(a)(2)(A), grants (as defined in paragraph (g) of this section) received from an organization described in section 509(a)(1) (hereinafter referred to in this subparagraph as a "public charity") are generally includible in full in computing the numerator of the recipient's support fraction of the taxable year in question. It is sometimes necessary to determine whether the recipient of a grant from a public charity has received such support from the public charity as a grant, or whether the recipient has in fact received such support as an indirect contribution from a donor to the public charity. If the amount received is considered a grant from the public charity, it is fully includable in the numerator of the support fraction under section 509(a)(2)(A). However, if the amount received is considered to be an indirect contribution from one of the public charity's donors which has passed through the public charity to the recipient organization, such amount will retain its character as a contribution from such donor and, if, for example, the donor is a substantial contributor (as defined in section 507(d)(2)) with respect to the ultimate recipient, such amount shall be excluded from the numerator of the support fraction under section 509(a)(2). If a public charity makes both an indirect contribution from its donor and an additional grant to the ultimate recipient, the indirect contribution shall be treated as made first.

(2) *Indirect contributions.* For purposes of subparagraph (1) of this paragraph, an indirect contribution is one which is expressly or impliedly earmarked by the donor as being for, or for the benefit of, a particular recipient (rather than for a particular purpose).

(3) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). M, a national foundation for the encouragement of the musical arts, is an organization described in section 170(b)(1)(A)(vi). A gives M a donation of $5,000 without imposing any restrictions or conditions upon the gift. M subsequently makes a $5,000 grant to X, an organization devoted to giving public performances of chamber music. Since the grant to X is treated as being received from M, it is fully includible in the numerator of X's support fraction for the taxable year of receipt.

Example (2). Assume M is the same organization described in example (1). B gives M a donation of $10,000, but requires that M spend the money for the purpose of supporting organizations devoted to the advancement of contemporary American music. M has complete discretion as to the organizations of the type described to which it will make a grant. M decides to make grants of $5,000 each to Y and Z, both being organizations described in section 501(c)(3) and devoted to furthering contemporary American music. Since the grants to Y and Z are treated as being received from M, Y and Z may each include one of the $5,000 grants in the numerator of its support fraction for purposes of section 509(a)(2)(A). Although the donation to M was conditioned upon the use of the funds for a particular purpose, M was free to select the ultimate recipient.

Example (3). N is a national foundation for the encouragement of art and is an organization described in section 170(b)(1)(A)(vi). Grants to N are permitted to be earmarked for particular purposes. O, which is an art workshop devoted to training young artists and claiming status under section 509(a)(2), persuades C, a private foundation, to make a grant of $25,000 to N. C is a disqualified person with respect to O. C made the grant to N with the understanding that N would be bound to make a grant to O in the sum of $25,000, in addition to a matching grant of N's funds to O in the sum of $25,000. Only the $25,000 received directly from N is considered a grant from N. The other $25,000 is deemed an indirect contribution from C to O and is to be excluded from the numerator of O's support fraction.

(k) *Method of accounting.* For purposes of section 509(a)(2), an organization's support will be determined solely on the cash receipts and disbursement method of accounting described in section 446(c)(1). For example, if a grantor makes a grant to an organization payable over a term of years, such grant will be includible in the support fraction of the grantee organization only when and to the extent amounts payable under the grant are received by the grantee.

(l) *Gross receipts from section 513(a)(1), (2), or (3) activities.* For purposes

of section 509(a)(2)(A)(ii), gross receipts from activities described in section 513(a)(1), (2), or (3) will be considered gross receipts from activities which are not unrelated trade or business.

(m) *Gross receipts distinguished from gross investment income.* (1) For purposes of section 509(a)(2), where the charitable purpose of an organization described in section 501(c)(3) is accomplished through the furnishing of facilities for a rental fee or loans to a particular class of persons, such as aged, sick, or needy persons, the support received from such persons will be considered "gross receipts" (within the meaning of section 509(d)(2)) from an activity which is not an unrelated trade or business, rather than "gross investment income." However, if such organization also furnishes facilities or loans to persons who are not members of such class and such furnishing does not contribute importantly to the accomplishment of such organization's exempt purposes (aside from the need of such organization for income or funds or the use it makes of the profits derived), the support received from such furnishing will be considered "rents" or "interest" and therefore will be treated as "gross investment income" within the meaning of section 509(d)(4), unless such income is included in computing the tax imposed by section 511.

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

Example. X, an organization described in section 501(c)(3), is organized and operated to provide living facilities for needy widows of deceased servicemen. X charges such widows a small rental fee for the use of such facilities. Since X is accomplishing its exempt purpose through the rental of such facilities, the support received from the widows is considered "gross receipts" within the meaning of section 509(d)(2). However, if X rents part of its facilities to persons having no relationship to X's exempt purpose, the support received from such rental will be considered "gross investment income" within the meaning of section 509(d)(4), unless such income is included in computing the tax imposed by section 511.

§ 1.509(a)-4 Supporting organizations.

(a) *In general.* (1) Section 509(a)(3) excludes from the definition of "private foundation" those organizations which meet the requirements of subparagraphs (A), (B), and (C) thereof.

(2) Section 509(a)(3)(A) provides that a section 509(a)(3) organization must be organized, and at all times thereafter operated, exclusively for the benefit of, to perform the functions of, or to carry out the purposes of one or more specified organizations described in section 509(a)(1) or (2). Section 509(a)(3)(A) describes the nature of the support or benefit which a section 509(a)(3) organization must provide to one or more section 509(a)(1) or (2) organizations. For purposes of section 509(a)(3)(A), paragraph (b) of this section generally describes the organizational and operational tests; paragraph (c) of this section describes permissible purposes under the organizational test; paragraph (d) of this section describes the requirement of supporting or benefiting one or more "specified" publicly supported organizations; and paragraph (e) of this section describes permissible beneficiaries and activities under the operational test.

(3) Section 509(a)(3)(B) provides that a section 509(a)(3) organization must be operated, supervised, or controlled by or in connection with one or more organizations described in section 509(a)(1) or (2). Section 509(a)(3)(B) and paragraph (f) of this section describe the nature of the relationship which must exist between the section 509(a)(3) and section 509(a)(1) or (2) organizations. For purposes of section 509(a)(3)(B), paragraph (g) of this section defines "operated, supervised, or controlled by"; paragraph (h) of this section defines "supervised or controlled in connection with;" and paragraph (i) of this section defines "operated in connection with."

(4) Section 509(a)(3)(C) provides that a section 509(a)(3) organization must not be controlled directly or indirectly by disqualified persons (other than foundation managers or organizations described in section 509(a)(1) or (2)). Section 509(a)(3)(C) and paragraph (j) of this section prescribe a limitation on the control over the section 509(a)(3) organization.

(5) For purposes of this section, the term "supporting organization" means either an organization described in section 509(a)(3) or an organization seeking section 509(a)(3) status, depending upon its context. For purposes of this section, the term "publicly supported organization" means an organization described in section 509(a)(1) or (2).

(b) *Organizational and operational tests.* (1) Under subparagraph (A) of section 509(a)(3), in order to qualify as a supporting organization, an organization must be both organized and operated exclusively "for the benefit of, to perform the functions of, or to carry out the purposes of" (hereinafter referred to in this section as being organized and operated "to support or benefit") one or more specified publicly supported organizations. If an organization fails to meet either the organizational or the operational test, it cannot qualify as a supporting organization.

(2) In the case of supporting organizations created prior to January 1, 1970, the organizational and operational tests shall apply as of January 1, 1970. Therefore, even though the original articles of organization did not limit its purposes to those required under section 509(a)(3)(A) and even though it operated before January 1, 1970, for some purpose other than those required under section 509(a)(3)(A), an organization will satisfy the organizational and operational tests if, on January 1, 1970, and at all times thereafter, it is so constituted as to comply with these tests. For the special rules pertaining to the application of the organizational and operational tests to organizations terminating their private foundation status under the 12-month or 60-month termination period provided under section 507(b)(1)(B) by becoming "public" under section 509(a)(3), see the regulations under section 507(b).

(c) *Organizational test*—(1) *In general.* An organization is organized exclusively for one or more of the purposes specified in section 509(a)(3)(A) only if its articles of organization (as defined in § 1.501(c)(3)-1(b)(2)):

(i) Limit the purposes of such organization to one or more of the purposes set forth in section 509(a)(3)(A);

(ii) Do not expressly empower the organization to engage in activities which are not in furtherance of the purposes referred to in subdivision (i) of this subparagraph;

(iii) State the specified publicly supported organizations on whose behalf such organization is to be operated (within the meaning of paragraph (d) of this section); and

(iv) Do not expressly empower the organization to operate to support or benefit any organization other than the specified publicly supported organizations referred to in subdivision (iii) of this subparagraph.

(2) *Purposes.* In meeting the organizational test, the organization's purposes, as stated in its articles, may be as broad as, or more specific than, the purposes set forth in section 509(a)(3)(A). Therefore, an organization which, by the terms of its articles, is formed "for the benefit of" one or more specified publicly supported organizations shall, if it otherwise meets the other requirements of this paragraph, be considered to have met the organizational test. Similarly, articles which state that an organization is formed "to perform the publishing functions" of a specified university are sufficient to comply with the organizational test. An organization which is "operated, supervised, or controlled by" (within the meaning of paragraph (g) of this section) or "supervised or controlled in connection with" (within the meaning of paragraph (h) of this section) one or more sections 509(a)(1) or (2) organizations to carry out the purposes of such organizations, will be considered as meeting the requirements of this paragraph if the purposes set forth in its articles are similar to, but no broader than, the purposes set forth in the articles of its controlling section 509(a)(1) or (2) organizations. If, however, the organization by which it is operated, supervised, or controlled is a publicly supported section 501(c)(4), (5), or (6) organization (deemed to be a section 509(a)(2) organization for purposes of section 509(a)(3) under the provisions of section 509(a)), the supporting organization will be considered as meeting the requirements of this paragraph if its articles require it to carry on charitable, etc., activities within the meaning of section 170(c)(2).

(3) *Limitations.* An organization is not organized exclusively for the purposes set forth in section 509(a)(3)(A)

if its articles expressly permit it to operate to support or benefit any organization other than those specified publicly supported organizations referred to in subparagraph (1)(iii) of this paragraph. Thus, for example, an organization will not meet the organizational test under section 509(a)(3)(A) if its articles expressly empower it to pay over any part of its income to, or perform any service for, any organization other than those publicly supported organizations specified in its articles (within the meaning of paragraph (d) of this section). The fact that the actual operations of such organization have been exclusively for the benefit of the specified publicly supported organizations shall not be sufficient to permit it to meet the organizational test.

(d) *Specified organizations.*—(1) *In general.* In order to meet the requirements of section 509(a)(3)(A), an organization must be organized and operated exclusively to support or benefit one or more "specified" publicly supported organizations. The manner in which the publicly supported organizations must be "specified" in the articles for purposes of section 509(a)(3)(A) will depend upon whether the supporting organization is "operated, supervised, or controlled by" or "supervised or controlled in connection with" (within the meaning of paragraphs (g) and (h) of this section) such organizations or whether it is "operated in connection with" (within the meaning of paragraph (i) of this section) such organizations.

(2) *Nondesignated publicly supported organizations; requirements.* (i) Except as provided in subdivision (iv) of this subparagraph, in order to meet the requirements of subparagraph (1) of this paragraph, the articles of the supporting organization must designate each of the "specified" organizations by name unless:

(*a*) The supporting organization is operated, supervised, or controlled by (within the meaning of paragraph (g) of this section), or is supervised or controlled in connection with (within the meaning of paragraph (h) of this section) one or more publicly supported organizations; and

(*b*) The articles of organization of the supporting organization require that it be operated to support or benefit one or more beneficiary organizations which are designated by class or purpose and which include:

(*1*) The publicly supported organizations referred to in (*a*) of this subdivision (without designating such organizations by name); or

(*2*) Publicly supported organizations which are closely related in purpose or function to those publicly supported organizations referred to in subdivision (i)(*a*) or this subparagraph (without designating such organization by name).

(ii) If a supporting organization is described in subdivision (i)(*a*) of this subparagraph, it will not be considered as failing to meet the requirements of subparagraph (1) of this paragraph that the publicly supported organizations be specified merely because its articles of organization permit the conditions described in subparagraphs (3) (i), (ii), and (iii) and (4)(i) (*a*) and (*b*) of this paragraph.

(iii) This subparagraph may be illustrated by the following examples:

Example (*1*). X is an organization described in section 501(c)(3) which operates for the benefit of institutions of higher learning in the State of Y. X is controlled by these institutions (within the meaning of paragraph (g) of this section) and such institutions are all section 509(a)(1) organizations. X's articles will meet the organizational test if they require X to operate for the benefit of institutions of higher learning or educational organizations in the State of Y (without naming each institution). X's articles would also meet the organizational test if they provided for the giving of scholarships to enable students to attend institutions of higher learning but only in the State of Y.

Example (*2*). M is an organization described in section 501(c)(3) which was organized and operated by representatives of N church to run a home for the aged. M is controlled (within the meaning of paragraph (g) of this section) by N church, a section 509(a)(1) organization. The care of the sick and the aged are longstanding temporal functions and purposes of organized religion. By operating a home for the aged, M is operating to support or benefit N church in carrying out one of its temporal purposes. Thus M's articles will meet the organizational test if they require M to care for the aged since M is operating to support one of N church's purposes (without designating N church by name).

(iv) A supporting organization will meet the requirements of subparagraph (1) of this paragraph even though its articles do not designate each of the "specified" organizations by name if:

(*a*) There has been an historic and continuing relationship between the supporting organization and the section 509(a)(1) or (2) organizations, and

(*b*) By reason of such relationship, there has developed a substantial identity of interests between such organizations.

(3) *Nondesignated publicly supported organizations; scope of rule.* If the requirements of subparagraph (2)(i)(*a*) of this paragraph are met, a supporting organization will not be considered as failing the test of being organized for the benefit of "specified" organizations solely because its articles:

(i) Permit the substitution of one publicly supported organization within a designated class for another publicly supported organization either in the same or a different class designated in the articles;

(ii) Permit the supporting organization to operate for the benefit of new or additional publicly supported organizations of the same or a different class designated in the articles; or

(iii) Permit the supporting organization to vary the amount of its support among different publicly supported organizations within the class or classes of organizations designated by the articles.

For example, X is an organization which operates for the benefit of private colleges in the State of Y. If X is controlled by these colleges (within the meaning of paragraph (g) of this section) and such colleges are all section 509(a)(1) organizations, X's articles will meet the organization test even if they permit X to operate for the benefit of any new colleges created in State Y in addition to the existing colleges or in lieu of one which has ceased to operate, or if they permit X to vary its support by paying more to one college than to another in a particular year.

(4) *Designated publicly supported organizations.* (i) If an organization is organized and operated to support one or more publicly supported organizations and it is "operated in connection with" such organization or organizations, then, except as provided in subparagraph (2)(iv) of this paragraph, its articles of organization must, for purposes of satisfying the organizational test under section 509(a)(3)(A), designate the "specified" organizations by name. Under the circumstances described in this subparagraph, a supporting organization which has one or more "specified" organizations designated by name in its articles, will not be considered as failing the test of being organized for the benefit of "specified" organizations solely because its articles:

(*a*) Permit a publicly supported organization which is designated by class or purpose, rather than by name, to be substituted for the publicly supported organization or organizations designated by name in the articles, but only if such substitution is conditioned upon the occurrence of an event which is beyond the control of the supporting organization, such as loss of exemption, substantial failure or abandonment of operations, or dissolution of the publicly supported organization or organizations designated in the articles;

(b) Permit the supporting organization to operate for the benefit of a beneficiary organization which is not a publicly supported organization, but only if such supporting organization is currently operating for the benefit of a publicly supported organization and the possibility of its operating for the benefit of other than a publicly supported organization is a remote contingency; or

(c) Permit the supporting organization to vary the amount of its support between different designated organizations, so long as it meets the requirements of the integral part test set forth in paragraph (i)(3) of this section with respect to at least one beneficiary organization.

(ii) If the beneficiary organization referred to in subdivision (i)(*b*) of this subparagraph is not a publicly supported organization, the supporting organization will not then meet the operational test of paragraph (e)(1) of this section. Therefore, if a supporting organization substituted in accordance with such subdivision (i)(*b*) a beneficiary other than a publicly supported organization and operated in support of such beneficiary organization, the supporting organization would not be described in section 509(a)(3).

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

Example. X is a charitable trust described in section 4947(a)(1) organized in 1968. Under the terms of its trust instrument, X's trustees are required to pay over all of X's annual income to M University Medical School for urological research. If M University Medical School is unable or unwilling to devote these funds to urological research, the trustees are required to pay all of such income to N University Medical School. However if N University Medical School is also unable or unwilling to devote these funds to urological research, X's trustees are directed to choose a similar organization willing to apply X's funds for urological research. From 1968 to 1973, X pays all of its net income to M University Medical School pursuant to the terms of the trust. M and N are publicly supported organizations. Although the contingent remainderman may not be a publicly supported organization, the possibility that X may operate for the benefit of other than a publicly supported organization is, in 1973, a remote possibility, and X will be considered as operating for the benefit of a "specified" publicly supported organization under subdivision (i)(b) of this subparagraph. However, if, at some future date, X actually substituted a nonpublicly supported organization as beneficiary, X would fail the requirements of the operational test set forth in paragraph (e)(1) of this section.

(e) *Operational test*—(1) *Permissible beneficiaries.* A supporting organization will be regarded as "operated exclusively" to support one or more specified publicly supported organizations (hereinafter referred to as the "operational test") only if it engages solely in activities which support or benefit the specified publicly supported organizations. Such activities may include making payments to or for the use of, or providing services or facilities for, individual members of the charitable class benefited by the specified publicly supported organization. A supporting organization may also, for example, make a payment indirectly through another unrelated organization to a member of a charitable class benefited by the specified publicly supported organization, but only if such a payment constitutes a grant to an individual rather than a grant to an organization. In determining whether a grant is indirectly to an individual rather than to an organization the same standard shall be applied as in § 53.4945–4(a)(4) of this chapter. Similarly, an organization will be regarded as "operated exclusively" to support or benefit one or more specified publicly supported organizations even if it supports or benefits an organization, other than a private foundation, which is described in section 501(c)(3) and is operated, supervised, or controlled directly by or in connection with such publicly supported organizations, or which is described in section 511(a)(2)(B). However, an organization will not be regarded as operated exclusively if any part of its activities is in furtherance of a purpose other than supporting or benefiting one or more specified publicly supported organizations.

(2) *Permissible activities.* A supporting organization is not required to pay over its income to the publicly supported organizations in order to meet the operational test. It may satisfy the test by using its income to carry on an independent activity or program which supports or benefits the specified publicly supported organizations. All such support must, however, be limited to permissible beneficiaries in accordance with subparagraph (1) of this paragraph. The supporting organization may also engage in fund raising activities, such as solicitations, fund raising dinners, and unrelated trade or business to raise funds for the publicly supported organizations, or for the permissible beneficiaries.

(3) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). M is a separately incorporated alumni association of X University and is an organization described in section 501(c)(3). X University is designated in M's articles as the sole beneficiary of its support. M uses all of its dues and income to support its own program of educational activities for alumni, faculty, and students of X University and to encourage alumni to maintain a close relationship with the university and to make contributions to it. M does not distribute any of its income directly to X for the latter's general purposes. M pays no part of its funds to, or for the benefit of, any organization other than X. Under these circumstances, M is considered as operated exclusively to perform the functions and carry out the purpose of X. Although it does not pay over any of its funds to X, it carries on a program which both supports and benefits X.

Example (2). N is a separately incorporated religious and educational organization described in section 501(c)(3). It was formed and is operated by Y Church to provide religious training for the members of the church. While it does not maintain a regular faculty, N conducts a Sunday school, weekly adult education lectures on religious subjects, and other similar activities for the benefit of the church members. All of its funds are disbursed in furtherance of such activities and no part of its funds is paid to, or for the benefit of, any organization other than Y Church. N is considered as operated exclusively to perform the educational functions of Y Church and to carry out its religious purposes by providing various forms of religious instruction.

Example (3). P is an organization described in section 501(c)(3). Its primary activity is providing financial assistance to S, a publicly supported organization which aids underdeveloped nations in Central America. P's articles of organization designate S as the principal recipient of P's assistance. However, P also makes a small annual general purpose grant to T, a private foundation engaged in work similar to that carried on by S. T performs a particular function that assists in the overall aid program carried on by S. Even though P is operating primarily for the benefit of S, a specified publicly supported organization, it is not considered as operated exclusively for the purposes set forth in section 509(a)(3)(A). The grant to T, a private foundation, prevents it from complying with the operational test under section 509(a)(3)(A).

Example (4) Assume the same facts as example (3), except that T is a section 501(c)(3) organization other than a private foundation and is operated in connection with S. Under these circumstances, P will be considered as operated exclusively to support S within the meaning of section 509(a)(3)(A).

Example (5) Assume the same facts as example (3) except that instead of the annual general purpose grant made to T, each grant made by P to T is specifically earmarked for the training of social workers and teachers, designated by name, from Central America. Under these circumstances, P's grants to T would be treated as grants to the individual social workers and teachers under section 4945(d)(3) and § 53.4945–4(a)(4), rather than as grants to T under section 4945(d)(4). These social workers and teachers are part of the charitable class benefitted by S. P would thus be considered as operating exclusively to support S within the meaning of section 509(a)(3)(A).

(f) *Nature of relationship required between organizations*—(1) *In general.* Section 509(a)(3)(B) describes the nature of the relationship required between a section 501(c)(3) organization and one or more publicly supported organizations in order for such section 501(c)(3) organization to qualify under the provisions of section 509(a)(3). To meet the requirements of section 509(a)(3), an organization must be operated, supervised, or controlled by or in connection with one or more publicly supported organizations. If an organization does not stand in one of such relationships (as provided in this paragraph) to one or more publicly supported organizations, it is not an organization described in section 509(a)(3).

(2) *Types of relationships.* Section 509(a)(3)(B) sets forth three different types of relationships, one of which must be met in order to meet the requirements of subparagraph (1) of this paragraph. Thus, a supporting organization may be:

(i) Operated, supervised, or controlled by,

(ii) Supervised or controlled in connection with, or

(iii) Operated in connection with, one or more publicly supported organizations.

(3) *Requirements of relationships.* Although more than one type of relationship may exist in any one case, any relationship described in section 509(a)(3)(B) must insure that:

(i) The supporting organization will be responsive to the needs of demands of one or more publicly supported organizations; and

(ii) The supporting organization will constitute an integral part of, or maintain a significant involvement in, the operations of one or more publicly supported organizations.

(4) *General description of relationships.* In the case of supporting organizations which are "operated, supervised, or controlled by" one or more publicly supported organizations, the distinguishing feature of this type of relationship is the presence of a substantial degree of direction by the publicly supported organizations over the conduct of the supporting organization, as described in paragraph (g) of this section. In the case of supporting organizations which are "supervised or controlled in connection with" one or more publicly supported organizations, the distinguishing feature is the presence of common supervision or control among the governing bodies of all organizations involved, such as the presence of common directors, as described in paragraph

(h) of this section. In the case of a supporting organization which is "operated in connection with" one or more publicly supported organizations, the distinguishing feature is that the supporting organization is responsive to, and significantly involved in the operations of, the publicly supported organization, as described in paragraph (i) of this section.

(g) *Meaning of "operated, supervised, or controlled by".* (1) (i) Each of the items "operated by," "supervised by," and "controlled by," as used in section 509(a)(3)(B), presupposes a substantial degree of direction over the policies, programs, and activities of a supporting organization by one or more publicly supported organizations. The relationship required under any one of these terms is comparable to that of a parent and subsidiary, where the subsidiary is under the direction of, and accountable or responsible to, the parent organization. This relationship is established by the fact that a majority of the officers, directors, or trustees of the supporting organization are appointed or elected by the governing body, members of the governing body, officers acting in their official capacity, or the membership of one or more publicly supported organizations.

(ii) A supporting organization may be "operated, supervised, or controlled by" one or more publicly supported organizations within the meaning of section 509(a)(3)(B) even though its governing body is not comprised of representatives of the specified publicly supported organizations for whose benefit it is operated within the meaning of section 509(a)(3)(A). A supporting organization may be "operated, supervised, or controlled by" one or more publicly supported organizations (within the meaning of section 509(a)(3)(B)) and be operated "for the benefit of" one or more different publicly supported organizations (within the meaning of section 509(a)(3)(A)) only if it can be demonstrated that the purposes of the former organizations are carried out by benefitting the latter organizations.

(2) The provisions of this paragraph may be illustrated by the following examples:

Example (1). X is a university press which is organized and operated as a nonstock educational corporation to perform the publishing and printing for M University, a publicly supported organization. Control of X is vested in a Board of Governors appointed by the Board of Trustees of M University upon the recommendation of the president of the university. X is considered to be operated, supervised, or controlled by M University within the meaning of section 509(a)(3)(B).

Example (2). Y Council was organized under the joint sponsorship of seven independent publicly supported organizations, each of which is dedicated to the advancement of knowledge in a particular field of social science. The sponsoring organizations organized Y Council as a means of pooling their ideas and resources for the attainment of common objectives, including the conducting of scholarly studies and formal discussions in various fields of social science. Under Y Council's by-laws, each of the seven sponsoring organizations elects three members to Y's board of trustees for 3-year terms. Y's board also includes the president of Y Council and eight other individuals elected at large by the board. Pursuant to policies established or approved by the board, Y Council engages in research, planning, and evaluation in the social sciences and sponsors or arranges conferences, seminars, and similar programs for scholars and social scientists. It carries out these activities through its own full-time professional staff, through a part-time committee of scholars, and through grant recipients. Under the above circumstances, Y Council is subject to a substantial degree of direction by the sponsoring publicly supported organizations. It is therefore considered to be operated, supervised, or controlled by such sponsoring organizations within the meaning of section 509(a)(3)(B).

Example (3). Z is a charitable trust created by A in 1972. It has three trustees, all of whom are appointed by M University, a publicly supported organization. The trust was organized and is operated to pay over all of its net income for medical research to N, O, and P, each of which is specified in the trust, is a hospital described in section 509(a)(1), and is located in the same city as M. Members of M's biology department are permitted to use the research facilities of N, O, and P. Under subparagraph (1)(ii) of this paragraph, Z is considered to be operated, supervised, or controlled by M within the meaning of section 509(a)(3)(B), even though it is operated for the benefit of N, O, and P within the meaning of section 509(a)(3)(A).

(h) *Meaning of "supervised or controlled in connection with".* (1) In order for a supporting organization to be "supervised or controlled in connection with" one or more publicly supported organizations, there must be common supervision or control by the persons supervising or controlling both the supporting organization and the publicly supported organizations to insure that the supporting organization will be responsive to the needs and requirements of the publicly supported organizations. Therefore, in order to meet such requirement, the control or management of the supporting organization must be vested in the same persons that control or manage the publicly supported organizations.

(2) A supporting organization will not be considered to be "supervised or controlled in connection with" one or more publicly supported organizations if such organization merely makes payments (mandatory or discretionary) to one or more named publicly supported organizations, even if the obligation to make payments to the named beneficiaries is enforceable under State law by such beneficiaries and the supporting organization's governing instrument contains provisions whose effect is described in section 508(e)(1)(A) and (B). Such arrangements do not provide a sufficient "connection" between the payor organization and the needs and requirements of the publicly supported organizations to constitute supervision or control in connection with such organizations.

(3) The provisions of this paragraph may be illustrated by the following examples:

Example (1). A, a philanthropist, founded X school for orphan boys (a publicly supported organization). At the same time A founded X school, he also established Y trust into which he transferred all of the operating assets of the school, together with a substantial endowment for it. Under the provisions of the trust instrument, the same persons who control and manage the school also control and manage the trust. The sole function of Y trust is to hold legal title to X school's operating and endowment assets, to invest the endowment assets and to apply the income from the endowment to the benefit of the school in accordance with direction from the school's governing body. Under these circumstances, Y trust is organized and operated "for the benefit of" X school and is "supervised or controlled in connection with" such organization within the meaning of section 509(a)(3). The fact that the same persons control both X and Y insures Y's responsiveness to X's needs.

Example (2). In 1972, B, a philanthropist, created P, a charitable trust for the benefit of Z, a symphony orchestra described in section 509(a)(2). B transferred 100 shares of common stock to P. Under the terms of the trust instrument, the trustees (none of whom is under the control of B) were required to pay over all of the income produced by the trust assets to Z. The governing instrument of P contains certain provisions whose effect is described in section 508(e)(1)(A) and (B). Under applicable State law, Z can enforce the provisions of the trust instrument and compel payment to Z in a court of equity. There is no relationship between the trustees of P and the governing body of Z. Under these circumstances P is not supervised or controlled in connection with a publicly supported organization. Because of the lack of any common supervision or control by the trustees of P and the governing body of Z, P is not supervised or controlled in connection with Z within the meaning of section 509(a)(3)(B).

Example (3). T is a charitable trust described in section 501(c)(3) and created under the will of D. Prior to his death, D was a leader and very active in C church, a publicly supported organization. D created T to perpetuate his interest in, and assistance to, C. The sole purpose of T was to provide financial support for C and its related institutions. All of the original named trustees of T are members of C, are leaders in C, and hold important offices in one or more of C's related institutions. Successor trustees of T are by the terms of the charitable trust instrument to be chosen by the remaining trustees and are also to be members of C. All of the original trustees have represented that any successor trustee will be a leader in C and will hold an important office in one or more of C's related institutions. By reason of the foregoing relationship T and its trustees are responsive to the needs and requirements of C and its related institutions. Under these circumstances, T trust is organized and operated "for the benefit of" C and is "supervised or controlled in connection with" C and its related institutions within the meaning of section 509(a)(3)(B).

(i) *Meaning of "operated in connection with"*—(1) *General rule.* (i) Except as provided in subdivisions (ii) and (iii) of this subparagraph and subparagraph (4) of this paragraph, a supporting organization will be considered as being operated in connection with one or more publicly supported organizations only if it meets the "responsiveness test" which is defined in subparagraph (2) of this paragraph and the "integral part test" which is defined in subparagraph (3) of this paragraph.

(ii) In the case of an organization which was supporting or benefiting one or more publicly supported organizations before November 20, 1970, additional facts and circumstances, such as a historic and continuing relationship between organizations, may be taken into account, in addition to the factors described in subparagraph (2) of this paragraph, to establish compliance with the responsiveness test.

(iii) If—

(*a*) A supporting organization can establish that it has met the integral part test set forth in subparagraph (3)(iii) of this paragraph for any 5-year period, period,

(*b*) Such organization cannot meet the requirements of such test for its current taxable year solely because the amount received by one or more of the publicly supported beneficiary organizations from such supporting organization is no longer sufficient, with respect to such beneficiary organizations, to satisfy subparagraph (3)(iii) of this paragraph, and

(*c*) There has been a historic and continuing relationship of support between such organizations between the end of such 5-year period and the taxable year in question,

then such supporting organization will be considered as meeting the requirements of the integral part test in subparagraph (3)(iii) of this paragraph for such taxable year.

(2) *Responsiveness test.* (i) For purposes of this paragraph, a supporting organization will be considered to meet the "responsiveness test" if the organization is responsive to the needs or demands of the publicly supported organizations within the meaning of this subparagraph. In order to meet this test, either subdivision (ii) or subdivision (iii) of this subparagraph must be satisfied.

(ii)(*a*) One or more officers, directors, or trustees of the supporting organization are elected or appointed by the officers, directors, trustees, or membership of the publicly supported organizations;

(*b*) One or more members of the governing bodies of the publicly supported organizations are also officers, directors, or trustees of, or hold other important offices in, the supporting organization; or

(*c*) The officers, directors, or trustees of the supporting organization maintain a close and continuous working relationship with the officers, directors, or trustees of the publicly supported organizations; and

(*d*) By reason of (*a*), (*b*), or (*c*) of this subdivision, the officers, directors or trustees of the publicly supported organizations have a significant voice in the investment policies of the supporting organization, the timing of grants, the manner of making them, and the selection of recipients by such supporting organization, and in otherwise directing the use of the income or assets of such supporting organization.

(iii)(*a*) The supporting organization is a charitable trust under State law;

(*b*) Each specified publicly supported organization is a named beneficiary under such charitable trust's governing instrument; and

(*c*) The beneficiary organization has the power to enforce the trust and compel an accounting under State law.

(3) *Integral part test; general rule.* (i) For purposes of this paragraph, a supporting organization will be considered to meet the "integral part test" if it maintains a significant involvement in the operations of one or more publicly supported organizations and such publicly supported organizations are in turn dependent upon the supporting organization for the type of support which it provides. In order to meet this test, either subdivision (ii) or subdivision (iii) of this subparagraph must be satisfied.

(ii) The activities engaged in for or on behalf of the publicly supported organizations are activities to perform the functions of, or to carry out the purposes of, such organizations, and, but for the involvement of the supporting organization, would normally be engaged in by the publicly supported organizations themselves.

(iii) (*a*) The supporting organization makes payments of substantially all of its income to or for the use of one or more publicly supported organizations, and the amount of support received by one or more of such publicly supported organizations is sufficient to insure the attentiveness of such organizations to the operations of the supporting organization. In addition, a substantial amount of the total support of the supporting organization must go to those publicly supported organizations which meet the attentiveness requirement of this subdivision with respect to such supporting organization. Except as provided in (*b*) of this subdivision, the amount of support received by a publicly supported organization must represent a sufficient part of the organization's total support so as to insure such attentiveness. In applying the preceding sentence, if such supporting organization makes payments to, or for the use of, a particular department or school of a university, hospital or church, the total support of the department or school shall be substituted for the total support of the beneficiary organization.

(*b*) Even where the amount of support received by a publicly supported beneficiary organization does not represent a sufficient part of the beneficiary organization's total support, the amount of support received from a supporting organization may be sufficient to meet the requirements of this subdivision if it can be demonstrated that in order to avoid the interruption of the carrying on of a particular function or activity, the beneficiary organization will be sufficiently attentive to the operations of the supporting organization. This may be the case where either the supporting organization or the beneficiary organization earmarks the support received from the supporting organization for a particular program or activity, even if such program or activity is not the beneficiary organization's primary program or activity so long as such program or activity is a substantial one.

(*c*) This subdivision may be illustrated by the following examples:

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Example (1). X, an organization described in section 501(c)(3), pays over all of its annual net income to Y, a museum described in section 509(a)(2). X meets the responsiveness test described in subparagraph (2) of this paragraph. In recent years, Y has earmarked the income received from X to underwrite the cost of carrying on a chamber music series consisting of 12 performances a year which are performed for the general public free of charge at its premises. Because of the expense involved in carrying on these recitals, Y is dependent upon the income from X for their continuation. Under these circumstances, X will be treated as providing Y with a sufficient portion of Y's total support to assure Y's atentiveness to X's operations, even though the chamber music series is not the primary part of Y's activities.

Example (2). M, an organization described in section 501(c)(3), pays over all of its annual net income to the Law School of N University, a publicly supported organization. M meets the responsiveness test described in subparagraph (2) of this paragraph. M has earmarked the income paid over to N's Law School to endow a chair in its Department of International Law. Without M's continued support, N might not continue to maintain this chair. Under these circumstances, M will be treated as providing N with a sufficient portion of N's total support to assure N's attentiveness to M's operations.

(*d*) All pertinent factors, including the number of beneficiaries, the length and nature of the relationship between the beneficiary and supporting organization and the purpose to which the funds are put (as illustrated by subdivision (iii) (*b*) and (*c*) of this subparagraph), will be considered in determining whether the amount of support received by a publicly supported beneficiary organization is sufficient to insure the attentiveness of such organization to the operations of the supporting organization. Normally the attentiveness of a beneficiary organization is motivated by reason of the amounts received from the supporting organization. Thus, the more substantial the amount involved, in terms of a percentage of the publicly supported organization's total support the greater the likelihod that the required degree of attentiveness will be present. However, in determining whether the amount received from the supporting organization is sufficient to insure the attentiveness of the beneficiary organization to the operations of the supporting organization (including attentiveness to the nature and yield of such supporting organization's investments), evidence of actual attentiveness by the beneficiary organization is of almost equal importance. An example of acceptable evidence of actual attentiveness is the imposition of a requirement that the supporting organization furnish reports at least annually for taxable years beginning after December 31, 1971, to the beneficiary organization to assist such beneficiary organization in insuring that the supporting organization has invested its endowment in assets productive of a

reasonable rate of return (taking appreciation into account) and has not engaged in any activity which would give rise to liability for a tax imposed under section 4941, 4943, 4944, or 4945 if such organization were a private foundation. The imposition of such requirement within 120 days after October 16, 1972, will be deemed to have retroactive effect to January 1, 1970, for purposes of determining whether a supporting organization has met the requirements of this subdivision for its first two taxable years beginning after December 31, 1969. The imposition of such requirement is, however, merely one of the factors in determing whether a supporting organization is complying with this subdivision and the absence of such requirement will not preclude an organization from classification as a supporting organization based on other factors.

(e) However, where none of the beneficiary organizations is dependent upon the supporting organization for a sufficient amount of the beneficiary organization's support within the meaning of this subdivision, the requirements of this subparagraph will not be satisfied, even though such beneficiary organizations have enforceable rights against such organization under State law.

(4) *Integral part test; transitional rule.* (i) A trust (whether or not exempt from taxation under section 501(a)) which on November 20, 1970, has met and continues to meet the requirements of subdivisions (ii) through (vi) of this subparagraph shall be treated as meeting the requirements of the integral part test (whether or not it meets the requirements of subparagraph (3) (ii) or (iii) of this paragraph) if for taxable years beginning after October 16, 1972, the trustee of such trust makes annual written reports to all of the beneficiary publicly supported organizations with respect to such trust setting forth a description of the assets of the trust, including a detailed list of the assets and the income produced by such assets. A trust organization which meets the requirements of this subparagraph may request a ruling that it is described in section 509(a)(3) in such manner as the Commissioner may prescribe.

(ii) All the unexpired interests in the trust are devoted to one or more purposes described in section 170(c) (1) or (2)(B) and a deduction was allowed with respect to such interests under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), 2522, or corresponding provisions of prior law (or would have been allowed such a deduction if the trust had not been created before 1913).

(iii) The trust was created prior to November 20, 1970, and did not receive any grant, contribution, bequest or other transfer on or after such date. For purpose of this subdivision, a split-interest trust described in section 4947(a)(2) which was created prior to November 20, 1970, which was irrevocable on such date, and which becomes a charitable trust described in section 4947(a)(1) after such date shall be treated as having been created prior to such date;

(iv) The trust is required by its governing instrument to distribute all of its net income currently to a designated publicly supported beneficiary organization. Where more than one publicly supported beneficiary organization is designated in the governing instrument of a trust, all of the net income must be distributable and must be distributed currently to each of such beneficiary organizations in fixed shares pursuant to such governing instrument. For purposes of this subdivision, the governing instrument of a charitable trust shall be treated as requiring distribution to a designated beneficiary organization where the trust instrument describes the charitable purpose of the trust so completely that such description can apply to only one existing beneficiary organization and is of sufficient particularity as to vest in such organization rights against the trust enforceable in a court possessing equitable powers;

(v) The trustee of the trust does not have discretion to vary either the beneficiaries or the amounts payable to the beneficiaries. For purposes of this subdivision, a trustee shall not be treated as having such discretion where the trustee has discretion to make payments of principal to the single section 509(a) (1) or (2) organization that is currently entitled to receive all of the trust's income or where the trust instrument provides that the trustee may cease making income payments to a particular charitable beneficiary in the event of certain specific occurrences, such as the loss of exemption under section 501(c)(3) or classification under section 509(a) (1) or (2) by the beneficiary or the failure of the beneficiary to carry out its charitable purpose properly;

(vi) None of the trustees would be disqualified persons within the meaning of section 4946(a) (other than foundation managers under 4946(a)(1)(B)) with respect to the trust if such trust were treated as a private foundation.

(5) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). N is a nonprofit publishing organization described in section 501(c)(3). It does all of the publishing and printing for the churches of a particular denomination (which are publicly supported organizations). Control of the organization is vested in a five-man Board of Directors, which includes one church official and four lay members of the congregations of that denomination. N does no other printing or publishing. It publishes all of the churches' religious as well as secular tracts and materials. Under these circumstances, N is considered as being "operated in connection with" a number of publicly supported organizations. Publishing religious literature is an integral part of the churches' activities; it is carried on by N on behalf of the churches, and there is sufficient direction of N's activities by the churches to insure responsiveness by N to their needs.

Example (2). O, an alumni association described in section 501(c)(3), was formed to promote a spirit of loyalty among graduates of Y University, a publicly supported organization, and to effect united action in promoting the general welfare of the university. A special committee of Y's governing board meets with O and makes recommendations as to the allocation of O's program of gifts and scholarships to the university and its students. O also provides certain functions which would otherwise be part of Y's functions, such as maintaining records of alumni. O publishes a bulletin to keep alumni aware of the activities of the university. Under these circumstances O is considered to be operated in connection with Y within the meaning of section 509(a)(3)(B).

Example (3). P is a trust created under the will of A for the purpose of furthering musical education. As a means of accomplishing its purposes P founded X, a school of music described in section 509(a)(1). The trust instrument is thereafter amended to name X specifically as the beneficiary of the trust. X can enforce its equitable rights as trust beneficiary under State law. Members of the governing body of X form a minority of the foundation managers of P. For many years the organizations have been operated in close association with each other. P provides the principal endowment fund for the operation of X. In addition, while the governing body of X concerns itself with artistic policies, the foundation managers of P handle the budgetary concerns of X. X's annual budget is prepared with the assistance of P's foundation managers and is approved by P. Under these circumstances, P is considered to be operated in connection with X within the meaning of section 509(a)(3)(B).

Example (4). Q is a charitable trust described in section 501(c)(3) and created under the will of C. Prior to his death, C built H Hospital and deeded it to I University for use as a training and clinical facility for I's medical school. Both H and I are publicly supported organizations. C created Q to perpetuate his interest in, and assistance to, H Hospital. The sole purpose of Q was to provide financial support for H, the beneficiary organization named in C's will. H can enforce its equitable rights as trust beneficiary under State law. After the death of C, Q continued to provide substantial support for H. It was primarily responsible for the erecting of a new hospital building, as well as the construction of other facilities for the hospital. In addition, each medical department of H indicates during the year what its greatest needs are. Once these requests are approved by the medical director of I University's Medical School, they are presented to Q, and subject to the amount of Q's income (all of which is applied to H), these requests are honored and the new equipment of facility is supplied through Q's funds. The governing body of Q and those of H and I are completely independent. However, based on the above facts, Q is responsive to the needs of H, Q maintains a substantial involvement in the conduct of H, and H is substantially dependent upon the receipt of support from Q. Accordingly, Q is operated in connection with one or more section 509(a)(1) organizations within the meaning of section 509(a)(3)(B).

Example (5). R is a charitable trust created under the will of B, who died in 1971. Its purpose is to hold assets as an endowment for S, a hospital, T, a university, and U, a national medical research organization (all being publicly supported organizations and specifically named in the trust instrument), and to distribute all of the income each year in equal shares among the three named beneficiaries. S, T, and U have certain enforceable rights against R under State law, including the right to compel an accounting. Except for making these annual payments, the trustees of R have no further contacts or relationships with S, T, or U. The payments by R to such organizations do not comprise a sufficient amount of support to meet the requirements of subparagraph

(3) of this paragraph for any of these organizations. Although R meets the responsiveness test described in subparagraph (2) of this paragraph, it does not meet the integral part test described in subparagraph (3) of this paragraph. R is not, therefore, considered as operated in connection with one or more publicly supported organizations within the meaning of section 509(a)(3)(B). However, if B had died prior to November 20, 1970, R could, upon meeting all of the requirements of subparagraph (4) of this paragraph, be considered as operated in connection with one or more of publicly supported organizations within the meaning of section 509(a)(3)(B).

Example (6). S is a charitable trust described in section 501(c)(3). S was created under the will of C in 1910 for the purpose of providing aged and indigent women with care and shelter. Prior to his death in 1910, C helped to create T, a home for aged women, through a substantial inter vivos contribution. Although T is not specifically named in C's will, the trustees of S (who are completely independent of T) have paid over all of S's income to T in furtherance of the trust's purposes since the death of C. S establishes that between 1910 and 1955, the amount of support received by T from S was sufficient support to satisfy the provisions of § 1.509(a)–4(i)(3)(iii). In 1956, T merged with U, a home for aged and indigent men, and V, a nursing home. S continued to pay all its income to W, the organization resulting from the merger of T, U, and V. However, as a result of the merger and certain changes in the methods of financing the operations, the payments made by S after 1955 no longer were sufficient to satisfy the integral part test of § 1.509(a)–4(i)(3)(iii). W qualifies as an organization described in section 509(a)(2). For the taxable year 1971, S meets the responsiveness test under § 1.509(a)–4(i)(2)(ii). Although W is not a named beneficiary under S's governing instrument, pursuant to § 1.509(a)–4(i)(1)(ii) the historic and continuing relationship between the organizations will be taken into account to establish compliance with the responsiveness test. Furthermore, pursuant to § 1.509(a)–4(i)(1)(iii), under the facts set forth above, the integral part test under § 1.509(a)–4(i)(3)(iii) will be considered as being satisfied for the taxable year 1971. Thus S will be considered as "operated in connection with" W for the taxable year 1971.

(j) *Control by disqualified persons*—(1) *In general.* Under the provisions of section 509(a)(3)(C) a supporting organization may not be controlled directly or indirectly by one or more disqualified persons (as defined in section 4946) other than foundation managers and other than one or more publicly supported organizations. If a person who is a disqualified person with respect to a supporting organization, such as a substantial contributor to the supporting organization, is appointed or designated as a foundation manager of the supporting organization by a publicly supported beneficiary organization to serve as the representative of such publicly supported organization, then for purposes of this paragraph such person will be regarded as a disqualified person, rather than as a representative of the publicly supported organization. An organization will be considered "controlled," for purposes of section 509(a)(3)(C), if the disqualified persons, by aggregating their votes or positions of authority, may require such organization to perform any act which significantly affects its operations or may prevent such organization from performing such act. This includes, but is not limited to, the right of any substantial contributor or his spouse to designate annually the recipients, from among the publicly supported organizations of the income attributable to his contribution to the supporting organization. Except as provided in subparagraph (2) of this paragraph, a supporting organization will be considered to be controlled directly or indirectly by one or more disqualified persons if the voting power of such persons is 50 percent or more of the total voting power of the organization's governing body or if one or more of such persons have the right to exercise veto power over the actions of the organization. Thus, if the governing body of a foundation is composed of five trustees, none of whom has a veto power over the actions of the foundation, and no more than two trustees are at any time disqualified persons, such foundation will not be considered to be controlled directly or indirectly by one or more disqualified persons by reason of this fact alone. However, all pertinent facts and circumstances including the nature, diversity, and income yield of an organization's holdings, the length of time particular stocks, securities, or other assets are retained, and its manner of exercising its voting rights with respect to stocks in which members of its governing body also have some interest, will be taken into consideration in determining whether a disqualified person does in fact indirectly control an organization.

(2) *Proof of independent control.* Notwithstanding subparagraph (1) of this paragraph, an organization shall be permitted to establish to the satisfaction of the Commissioner that disqualified persons do not directly or indirectly control it. For example, in the case of a religious organization operated in connection with a church, the fact that the majority of the organization's governing body is composed of lay persons who are substantial contributors to the organization will not disqualify the organization under section 509(a)(3)(C) if a representative of the church, such as a bishop or other official, has control over the policies and decisions of the organization.

(k) *Organizations operated in conjunction with certain section 501(c)(4), (5), or (6) organizations.* (1) For purposes of section 509(a)(3), an organization which is operated in conjunction with an organization described in section 501(c)(4), (5), or (6) (such as a social welfare organization, labor or agricultural organization, business league, or real estate board) shall, if it otherwise meets the requirements of section 509(a)(3), be considered an organization described in section 509(a)(3) if such section 501(c)(4), (5), or (6) organization would be described in section 509(a)(2) if it were an organization described in section 501(c)(3). The section 501(c)(4), (5), or (6) organization, which the supporting organization is operating in conjunction with, must therefore meet the one-third tests of a publicly supported organization set forth in section 509(a)(2).

(2) This paragraph may be illustrated by the following example:

Example. X medical association, described in section 501(c)(6), is supported by membership dues and funds resulting from the performance of its exempt activities. This support, which is entirely from permitted sources, constitutes more than one-third of X's support. X does not normally receive more than one-third of its support from gross investment income. X organized and operated an endowment fund for the sole purpose of furthering medical education. The fund is an organization described in section 501(c)(3). Since more than one-third of X's support is derived from membership dues and from funds resulting from the performance of exempt purposes (all of which are from permitted sources) and not more than one-third of its support is from gross investment income, it would be a publicly supported organization described in section 509(a)(2) if it were described in section 501(c)(3) rather than section 501(c)(6). Accordingly, if the fund otherwise meets the requirements of section 509(a)(3) with respect to X, it will be considered an organization described in section 509(a)(3).

§ 1.509(a)–5 Special rules of attribution.

(a) *Retained character of gross investment income.* (1) For purposes of determining whether an organization meets the gross investment income test set forth in section 509(a)(2)(B), amounts received by such organization from:

(i) An organization which seeks to be described in section 509(a)(3) by reason of its support of such organization; or

(ii) A charitable trust, corporation, fund, or association described in section 501(c)(3) (including a charitable trust described in section 4947(a)(1)) or a split interest trust described in section 4947(a)(2), which is required by its governing instrument or otherwise to distribute, or which normally does distribute, at least 25 percent of its adjusted net income (within the meaning of section 4942(f)) to such organization, and such distribution normally comprises at least 5 percent of such distributee organization's adjusted net income,

will retain their character as gross investment income (rather than gifts or contributions) to the extent that such amounts are characterized as gross investment income in the possession of the distributing organization described in subdivision (i) or (ii) of this subparagraph or, if the distributing organization is a split interest trust described in section 4947(a)(2), to the extent that such amounts would be characterized as gross investment income attributable to transfers in trust after May 26, 1969, if such trust were a private foundation. For purposes of this section, all income which is characterized as gross investment income in the possession of the distributing organization shall be deemed to be distributed first by such organization and shall retain its character as such in the possession of the recipient of amounts described in this paragraph. If an organization described in subdivision (i) or (ii) of this subparagraph makes distributions to more than one organization, the amount of gross investment income

deemed distributed shall be prorated among the distributees.

(2) For purposes of subparagraph (1) of this paragraph, amounts paid by an organization to provide goods, services, or facilities for the direct benefit of an organization seeking section 509(a)(2) status (rather than for the direct benefit of the general public) shall be treated in the same manner as amounts received by the latter organization. Such amounts will be treated as gross investment income to the extent that such amounts are characterized as gross invetment income in the possession of the organization spending such amounts. For example, X is an organization described in subparagraph (1)(i) of this paragraph. It uses part of its funds to provide Y, an organization seeking section 509(a)(2) status, with certain services which Y would otherwise be required to purchase on its own. To the extent that the funds used by X to provide such services for Y are characterized as gross investment income in the possession of X, such funds will be treated as gross investment income received by Y.

(3) An organization seeking section 509(a)(2) status shall file a separate statement with its Form 990, Annual Information Return, setting forth all amounts received from organizations described in subparagraph (1) (i) or (ii) of this paragraph.

(b) *Relationships created for avoidance purposes.* (1) If a relationship between an organization seeking section 509(a)(3) status and an organization seeking section 509(a)(2) status:

(i) Is established or availed of after October 9, 1969, and

(ii) One of the purposes of establishing or utilizing such relationship is to avoid classification as a private foundation with respect to either organization,

the character and amount of support received by the section 509(a)(3) organization will be attributed to the section 509(a)(2) organization for purposes of determining whether the latter meets the one-third support test and the one-third gross investment income test under section 509(a)(2). If a relationship described in this subparagraph is established or utilized by an organization seeking section 509(a)(3) status and two or more organizations seeking section 509(a)(2) status, the amount of support received by the former organization will be prorated among the latter organizations and the character of each class of support (as defined in section 509 (d)) will be attributed pro rata to each such organization. The provisions of this paragraph and of paragraph (a) of this section are not mutually exclusive.

(2) In determining whether a relationship between one or more organizations seeking section 509(a)(2) status (hereinafter referred to as "beneficiary organizations") and an organization seeking section 509(a)(3) status (hereinafter referred to as the "supporting organization") has been established or availed of to avoid classification as a private foundation (within the meaning of subparagraph (1) of this paragraph), all pertinent facts and circumstances, including the following, shall be taken into account as evidence that a relationship was not established or availed of to avoid classification as a private foundation:

(i) The supporting organization is operated to support or benefit several specified beneficiary organizations.

(ii) The beneficiary organization has a substantial number of dues-paying members (in relation to the public it serves and the nature of its activities) and such members have an effective voice in the management of both the supporting and beneficiary organizations.

(iii) The beneficiary organization is composed of several membership organizations, each of which has a substantial number of members (in relation to the public it serves and the nature of its activities), and such membership organizations have an effective voice in the management of the supporting and beneficiary organizations.

(iv) The beneficiary organization receives a substantial amount of support from the general public, public charities, or governmental grants.

(v) The supporting organization uses its funds to carry on a meaningful program of activities to support or benefit the beneficiary organization and such use would, if such supporting organization were a private foundation, be sufficient to avoid the imposition of any tax upon such organization under section 4942.

(vi) The supporting organization is not able to exercise substantial control or influence over the beneficiary organization by reason of the former's receiving support or holding assets which are disproportionately large in comparison with the support received or the assets held by the latter.

(vii) Different persons manage the operations of the beneficiary and supporting organizations and each organization performs a different function.

(3) The provisions of this paragraph may be illustrated by the following examples:

Example (1). M, an organization described in section 509(a)(2), is a council composed of 10 learned societies. Each member society has a large membership of scholars interested in a particular academic area. In 1970 M established N, an organization seeking section 509(a)(3) status, for the purpose of carrying on research and study projects of interest to the member societies. The principal source of funds for N's activities is from foundation and government grants and contracts. The principal source of funds for M's activities after the creation of N is membership dues. M continued to maintain a wide variety of activities for its members, such as publishing periodicals and carrying on seminars and conferences. N is subject to complete control by the governing body of M. Under these circumstances, the relationship between these organizations is not one which is described in subparagraph (1) of this paragraph.

Example (2). Q is a local medical research organization described in section 509(a)(2). Its fixed assets are negligible and it carries on research activities on a limited scale. It also makes a limited number of grants to scientists and doctors who are engaged in medical research of interest to Q. It receives support through small government grants and a few research contracts from private foundations. R is an organization described in section 501(c)(3). As of January 1, 1970, R was classified as a private foundation under section 509. It has a substantial endowment which it uses to make grants to various charitable and scientific organizations described in section 501(c)(3). During 1970, R agrees to subsidize the research activities of Q. R amends its governing instrument to provide specifically that all of R's support will be used for research activities which are approved and supervised by Q. R also amends its bylaws to permit a minority of Q's board of directors to be members of R's governing body. R then gives timely notification under section 507(b)(1)(B)(ii) that R is terminating its private foundation status by meeting the requirements of section 509(a)(3) by the end of the 12-month period described in section 507(b)(1)(B)(i). For purposes of determining whether R has met the requirements of section 509(a)(3) by the end of the 12-month period, as well as determining Q's status under section 509(a)(2), the character and amount of support received by R will be attributed to Q.

(c) *Effect on organizations claiming section 509(a)(3) status.* If an organization claiming section 509(a)(2) status fails to meet either the one-third support test or the one-third gross investment income test under section 509(a)(2) by reason of the application of the provisions of paragraph (a) or (b) of this section, and such organization is one of the specified organizations (within the meaning of section 509(a)(3)(A)) for whose support or benefit an organization claiming section 509(a)(3) status is operated, the organization claiming section 509(a)(3) status will not be considered to be operated exclusively to support or benefit one or more section 509(a) (1) or (2) organizations.

§ 1.509(a)–6 Classification under section 509(a).

If an organization is described in section 509(a)(1) and also in another paragraph of section 509(a), it will be treated as described in section 509(a)(1). For purposes of this section, the parenthetical language "other than in clauses (vii) and (viii)" used in section 509(a)(1) shall be construed to mean "other than an organization which is described only in clause (vii) or (viii)". For example, X is an organization which is described in section 170(b)(1)(A)(vi), but could also meet the description of section 170(b)(1)(A)(viii) as an organization described in section 509(a)(2). For purposes of the one-third support test in section 509(a)(2)(A), contributions from X to other organizations will be treated as support from an organization described in section 170(b)(1)(A)(vi) rather than from an organization described in section 170(b)(1)(A)(viii).

§ 1.509(a)–7 Reliance by grantors and contributors to section 509(a) (1), (2), and (3) organizations.

(a) *General rule.* Once an organization has received a final ruling or deter-

mination letter classifying it as an organization described in section 509(a)(1), (2), or (3), the treatment of grants and contributions and the status of grantors and contributors to such organization under sections 170, 507, 545(b)(2), 556(b)(2), 642(c), 4942, 4945, 2055, 2106(a)(2), and 2522 will not be affected by reason of a subsequent revocation by the service of the organization's classification as described in section 509(a)(1), (2), or (3) until the date on which notice of change of status is made to the public (such as by publication in the Internal Revenue Bulletin) or another applicable date, if any, specified in such public notice. In appropriate cases, however, the treatment of grants and contributions and the status of grantors and contributors to an organization described in section 509(a)(1)(2), or (3) may be affected pending verification of the continued classification of such organization under section 509(a)(1), (2), or (3). Notice to this affect will be made in a public announcement by the service. In such cases the effect of grants and contributions made after the date of the announcement will depend upon the statutory qualification of the organization as an organization described in section 509(a)(1), (2), or (3).

(b) *Exceptions.* (1) Paragraph (a) of this section shall not apply if the grantor or contributor:

(i) Had knowledge of the revocation of the ruling or determination letter classifying the organization as an organization described in section 509(a)(1), (2), or (3), or

(ii) Was in part responsible for, or was aware of, the act, the failure to act, or the substantial and material change on the part of the organization which gave rise to the revocation of the ruling or determination letter classifying the organization as an organization described in section 509(a)(1), (2), or (3).

(2) Paragraph (a) of this section shall not apply where a different rule is otherwise expressly provided in the regulations under sections 170(b)(1)(A), 507(b)(1)(B), or 509.

§ 1.509(b) Statutory provisions; private foundation defined; continuation of private foundation status.

SEC. 509. *Private foundation defined.*

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(b) *Continuation of private foundation status.* For purposes of this title, if an organization is a private foundation (within the meaning of subsection (a)) on October 9, 1969, or becomes a private foundation on any subsequent date, such organization shall be treated as a private foundation for all periods after October 9, 1969, or after such subsequent date, unless its status as such is terminated under section 507.

[Sec. 509(b), as added by sec. 101(a), Tax Reform Act 1969 (83 Stat. 497)]

§ 1.509(b)–1 Continuation of private foundation status.

(a) *In general.* If an organization is a private foundation (within the meaning of section 509(a)) on October 9, 1969, or becomes a private foundation on any subsequent date, such organization shall be treated as a private foundation for all periods after October 9, 1969, or after such subsequent date, unless its status as such is terminated under section 507. Therefore, if an organization was described in section 501(c)(3) and was a private foundation within the meaning of section 509(a) on October 9, 1969, it shall be treated as a private foundation for all periods thereafter, even though it may also satisfy the requirements of an organization described in some other paragraph of section 501(c). For example, if on October 9, 1969, an organization was described in section 501(c)(3), but because of its activities, it could also have qualified as an organization described in section 501(c)(4), such organization will continue to be treated as a private foundation, if it was a private foundation within the meaning of section 509(a) on October 9, 1969.

(b) *Taxable private foundations.* If an organization is a private foundation on October 9, 1969, and it is determined that it is not exempt under section 501(a) as an organization described in section 501(c)(3) as of any date after October 9, 1969, such organization, even though it may operate thereafter as a taxable entity, will continue to be treated as a private foundation unless its status as such is terminated under section 507. For example, X organization is a private foundation on October 9, 1969. It is subsequently determined that, as of July 1, 1972, X is no longer exempt under section 501(a) as an organization described in section 501(c)(3) because, for example, it has not conformed its governing instrument pursuant to section 508(e). X will continue to be treated as a private foundation after July 1, 1972, unless its status as such is terminated under section 507. However, if an organization is not exempt under section 501(a) as an organization described in section 501(c)(3) on October 9, 1969, then it will not be treated as a private foundation within the meaning of section 509(a) by reason of section 509(b), unless it becomes a private foundation on a subsequent date.

§ 1.509(c) Statutory provisions; private foundation defined; status of organization after termination of private foundation status.

SEC. 509. *Private foundation defined.*

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(c) *Status of organization after termination of private foundation status.* For purposes of this part, an organization the status of which as a private foundation is terminated under section 507 shall (except as provided in section 507(b)(2)) be treated as an organization created on the day after the date of such termination.

[Sec. 509(c), as added by sec. 101(a), Tax Reform Act of 1969 (83 Stat. 497)]

§ 1.509(c)–1 Status of organization after termination of private foundation status.

(a) *In general.* For purposes of Part II of Subchapter F of this chapter, an organization whose status as a private foundation is terminated under section 507 shall be treated as an organization created on the day after the date of such termination. An organization whose private foundation status has been terminated under the provisions of section 507(a) will, if it continues to operate, be treated as a new organization and must, if it desires to be classified under section 501(c)(3), give notification that it is applying for recognition of section 501(c)(3) status pursuant to the provisions of section 508(a).

(b) *Effect upon section 507(d)(1).* If the private foundation status of an organization has been terminated under section 507(b)(1)(B) and the regulations thereunder, and:

(1) Such organization does not continue at all times thereafter to meet the requirements of section 509(a)(1), (2), or (3) (and is therefore no longer excluded from the definition of a private foundation); and

(2) The status of such organization as a private foundation is thereafter terminated under section 507(a),

then the tax imposed under section 507(c)(1) upon the aggregate tax benefit (described in section 507(d)(1)) resulting from section 501(c)(3) status shall be computed only upon the aggregate tax benefit resulting after the date on which the organization again becomes a private foundation under subparagraph (1) of this paragraph.

§ 1.509(d) Statutory provisions; private foundation defined; definition of support.

SEC. 509. *Private foundation defined.*

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(d) *Definition of support.* For purposes of this part and chapter 42, the term "support" includes (but is not limited to)—

(1) Gifts, grants, contributions, or membership fees,

(2) Gross receipts from admissions, sales of merchandise, performance of services, or furnishing of facilities in any activity which is not an unrelated trade or business (within the meaning of section 513),

(3) Net income from unrelated business activities, whether or not such activities are carried on regularly as a trade or business,

(4) Gross investment income (as defined in subsection (e)),

(5) Tax revenues levied for the benefit of an organization and either paid to or expended on behalf of such organization, and

(6) The value of services or facilities (exclusive of services or facilities generally furnished to the public without charge) furnished by a governmental unit referred to in section 170(c)(1) to an organization without charge.

Such term does not include any gain from the sale or other disposition of property which would be considered as gain from the sale or exchange of a capital asset, or the value of exemption from any Federal, State, or local tax or any similar benefit.

[Sec. 509(d), as added by section 101(a), Tax Reform Act 1969 (83 Stat. 497)]

§ 1.509(d)–1 Definition of support

For purposes of section 509(a)(2), the term "support" does not include amounts received in repayment of the principal of a loan or other indebtedness. See, however, section 509(e) as to amounts re-

ceived as interest on a loan or other indebtedness.

§ 1.509(e) Statutory provisions; private foundation defined; definition of gross investment income.

SEC. 509. *Private foundation defined.*

* * * * *

(e) *Definition of gross investment income.* For purposes of subsection (d), the term "gross investment income" means the gross amount of income from interest, dividends, rents, and royalties, but not including any such income to the extent included in computing the tax imposed by section 511.

[Sec. 509(e), as added by section 101(a), Tax Reform Act 1969 (83 Stat. 498)]

§ 1.509(e)–1 Definition of gross investment income.

For the distinction between gross receipts and gross investment income, see § 1.509(a)–3(m).

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

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

Approved: October 6, 1972.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

[FR Doc.72-17511 Filed 10-16-72;8:45 am]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 175—CSC SECURITY PROGRAM

A new Part 175 is added to Chapter I of Title 5 of the Code of Federal Regulations to prescribe the procedures whereby members of the public or Departments may direct requests for a review of the classification of a Commission document. The new Part 175 reads as follows:

§ 175.101 Requests for review of classification of documents.

A person desiring a review of the classification of a Commission document under Executive Order 11652 and the National Security Council Directive Governing the Classification, Downgrading, Declassification and Safeguarding of National Security Information shall submit his request in writing to the Commission's Security Officer. Procedures for submitting requests for review of classification, and for appeals from unfavorable action thereon, and the addresses to which requests and appeals should be directed are set out in Appendix A to this part.

APPENDIX A

REQUESTS FOR DECLASSIFICATION REVIEW

The following guidance is provided for members of the public desiring a classification review of a document of the Civil Service Commission (CSC) pursuant to section 5.(c) of Executive Order 11652 (37 F.R. 5209, March 10, 1972) and section III.B of the National Security Council Directive Governing the Classification, Downgrading, Declassification and Safeguarding of National Security Information (37 F.R. 10053, May 19, 1972).

(a) *Request for classification review of documents.* (1) Any person desiring a classification review of a CSC document containing information classified as National Security Information by reason of the provisions of Executive Order 11652 (or any predecessor Executive order) and which is more than 10 years old, should address such requests to the Security Officer, U.S. Civil Service Commission, Washington, D.C. 20415. (2) Requests need not be made on any special form but shall, as specified in the Executive order, describe the document with sufficient particularity to enable CSC personnel to identify and obtain the document from CSC records without expending more than a reasonable amount of effort. (3) Charges for locating and reproducing copies of records will be made when deemed applicable in accordance with title 5 of the Independent Offices Appropriations Act, 1952, 65 Stat. 290, 31 U.S.C. 483a and the requester will be so notified.

(b) *Action on requests for classification review.* (1) The Security Officer shall assign the request to the appropriate office for action. The Security Officer or the office which has been assigned action shall immediately acknowledge receipt of the request in writing. Every effort will be made to complete action on each request within thirty (30) days of receipt of the request. If action cannot be completed within thirty (30) days, the requester shall be so advised by the Security Officer or the office acting on the request along with the reasons for the need for additional time. (2) If the requester does not receive a decision on his request within sixty (60) days from the date of receipt of his request by CSC, or from the date of the most recent receipt of his response to a CSC request for more particulars, he may apply to the CSC Committee on Classification of Security Information, U.S. Civil Service Commission, Washington, D.C. 20415, for a decision on his request. (3) In the event the Security Officer or the office which has been assigned action on the request makes the determination that the requested information must remain classified by reason of the provisions of Executive Order 11652, the requester shall be given prompt notification of that decision and, whenever possible, shall be provided with a brief statement as to why the information or material cannot be declassified. He shall also be advised that if he desires he may appeal that determination to the CSC Committee on Classification of Security Information, U.S. Civil Service Commission, Washington, D.C. 20415. Any such request shall include a brief statement as to why the requester disagrees with the decision which he is appealing. (4) The CSC Committee on Classification of Security Information shall normally render its decision within thirty (30) days of receipt of a request. If a longer period is likely to be required because of the need for additional communications or conferences with the requester, he shall be advised of the time needed to complete review of the matter.

(c) *Appeal to Interagency Classification Review Committee.* Whenever the CSC Committee on Classification of Security Information confirms a determination for continued classification, it shall so notify the requester who shall be entitled to appeal that action to the Interagency Classification Review Committee established under section 7(A) of Executive Order 11652. Such appeals should be addressed to the Interagency Classification Review Committee, The Executive Office Building, Washington, D.C. 20500.

(d) *Suggestions and complaints.* Any person may also direct suggestions or complaints with respect to the administration of the other provisions of Executive Order 11652 and the NSC Directive by the CSC to the CSC Committee for Classification of Security Information, U.S. Civil Service Commission, Washington, D.C. 20415.

(e) *Other material.* CSC Administrative Manual, Chapter 175.02 covering CSC policies and procedures relating to classified information or material is available for inspection by the public in the CSC Library, Room 5H27, 1900 E Street NW., Washington, D.C. or in one of the 10 CSC regional offices in the following cities: Atlanta, Boston, Chicago, Dallas, Denver, New York, Philadelphia, St. Louis, San Francisco, and Seattle.

(E.O. 11652, 37 F.R. 5209)

Effective date. This regulation shall be effective upon its publication in the FEDERAL REGISTER (10–17–72).

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

[FR Doc.72-17644 Filed 10-16-72;8:49 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Inspection Service, Department of Agriculture

SUBCHAPTER B—COOPERATIVE CONTROL AND ERADICATION OF LIVESTOCK OR POULTRY DISEASES

PART 56—SWINE DESTROYED BECAUSE OF HOG CHOLERA

Payment of Indemnities

Pursuant to the provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111–113, 114, 114a, 114g, 115, 117, 120, 121, 123–126, 134a–134h), Part 56, Title 9, Code of Federal Regulations relating to the payment of indemnity for swine destroyed because of hog cholera, is thereby amended in the following respects:

In § 56.7, paragraphs (a) and (b) are amended to read:

§ 56.7 Payment to owners for swine destroyed.

(a) Subject to paragraph (b) of this section, owners of swine destroyed in accordance with this part in States listed in § 76.2 (f) or (g) of this chapter and in States not listed in either of these sections, may be paid an indemnity by the United States not to exceed the percentage of the appraised value of swine destroyed as specified in the following schedule: *Providing*, That each such State has laws, rules or regulations requiring the individual identification of all feeder and breeder swine moving through livestock markets and other concentration points in intrastate and interstate movement:

(1) 90 percent of the appraised value in States listed in § 76.2(g) of this chapter;

(2) 75 percent of the appraised value in States listed in § 76.2(f) and in other States not listed in § 76.2(g) of this chapter; and

(3) In States, whether listed in § 76.2 (f) or (g) or unlisted in either of these sections, which do not qualify under the identification requirement in this paragraph, an indemnity may be paid by the United States not to exceed 50 percent of the appraised value of swine destroyed.

(b) Federal indemnity as specified in this paragraph may be paid for swine destroyed subject to the provisions of paragraph (a) of this section:

(1) In States listed in § 76.2(g) of this chapter, which qualify under the provisions of paragraph (a) of this section, an indemnity may be paid not to exceed $180 per head for purebred, inbred, or hybrid swine and for breeding swine, or $90 per head for all other swine.

(2) In States listed in § 76.2(f) and in those States not listed in either § 76.2 (f) or (g) of this chapter, which qualify under the provisions of paragraph (a) of this section, an indemnity may be paid not to exceed $150 per head for purebred, inbred, or hybrid swine and for breeding swine, or $75 per head for all other swine.

(3) In States, whether listed or unlisted in § 76.2 (f) or (g) of this chapter, which do not qualify under the identification requirement in paragraph (a) of this section, an indemnity may be paid not to exceed $100 per head for purebred, inbred, or hybrid swine and for breeding swine, or $50 per head for all other swine.

* * * * *

(Secs. 3–5, 23 Stat. 32, as amended; sec. 2, 32 Stat. 792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 11, 58 Stat. 734, as amended; 75 Stat. 481, 76 Stat. 129–132; 21 U.S.C. 111–113, 114, 114a, 114g, 115, 117, 120, 121, 123–126, and 134a–134h; 29 F.R. 16210, as amended; 37 F.R. 6327, 6505)

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

The amendment would (1) increase the ratio of indemnity which may be paid for swine destroyed because of hog cholera in States not listed in § 76.2 (f) or (g) from 50 percent to 75 percent of appraised value; (2) would increase the maximum which may be paid for purebred, inbred, or hybrid swine and for breeding swine in such States from $100 to $150 per head; and (3) would increase the maximum which may be paid for all other swine in such States from $50 to $75 per head.

Because of the urgency involved in eradicating the current outbreak of hog cholera in this country, it is essential that the provisions of this amendment be placed in effect without delay. Accordingly, under administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 11th day of October 1972.

F. J. MULHERN,
Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72-17658 Filed 10-16-72;8:48 am]

Chapter III—Animal and Plant Health Inspection Service (Meat and Poultry Products Inspection), Department of Agriculture

IMPORT INSPECTION ESTABLISHMENTS

On December 4, 1971, there was published in the FEDERAL REGISTER (36 F.R. 23161) in accordance with the administrative procedure provisions in 5 U.S.C. 553, a notice of proposed rule making under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) to amend the Federal meat inspection regulations (9 CFR Chapter III, Subchapter A) for the purpose of prescribing the sanitary conditions under which imported meat is to be inspected. Interested persons were given 60 days in which to submit data, views or arguments concerning the proposed amendments.

Fourteen letters of comment were received. Of these, six supported the proposed amendments, three were in opposition and five sought interpretations or suggested editorial changes to clarify intent.

Some comments objected to application of the proposed regulations to mobile inspection units as used in certain geographical areas. In order to assure the sanitary handling of all imported meat products and avoid discrimination among importers, the regulations must be applied to all facilities where import meat inspections are to be made.

Concern was expressed in some comments on requirement of quick defrosting equipment at the inspection facilities. Facilities for defrosting meat will be required only at those locations where frozen boneless meat is presented for inspection. Facilities requirements will depend on the type and quantity of meat product imported.

Some of the comments recommended clarification of the proposal to assure that boxed cuts would not have to be marked directly with the official inspection legend; and that boxes of products refused entry would not be required to be marked "Refused Entry" if they were otherwise sufficiently identified as such in the judgment of the area supervisor.

After consideration of these comments and other relevant information, it has been decided to issue the regulations substantially as they were proposed. However, certain wording changes have been made to clarify intent without significantly affecting the content. The changes in § 327.6 (f) and (g) are necessary to permit coordination of their provisions with applicable rules of practice and to reflect the authority in section 401 of the Act. It does not appear that further public participation in this proceeding would make additional information available to the Department. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that such further public proceedings are impracticable and unnecessary. Accordingly, pursuant to section 21 of the Federal Meat Inspection Act (21 U.S.C. 621), the proposed amendments are adopted as proposed (36 F.R. 23161; F.R. Doc. 71-17674) with the following changes:

1. In proposed § 312.7(a), the phrase "and size" is deleted; the phrase "For Application to Carcasses, Primal Parts, and Cuts, Not in Containers" is substituted for the phrase "For Application To Carcasses, Primal Parts of A Carcass, and Cuts Therefrom;" and the phrase "For Application To Outside Containers" is substituted for the phrase "For Application To The Outside Container."

2. In proposed § 312.7(c) the word "when" is inserted before the phrase "required by Part 327."

3. In footnote 2 relating to proposed § 327.6, the word "or" is deleted.

4. In the heading for proposed § 327.7, the phrase "facilities and" is deleted, and in § 327.6 (f) and (g) changes are made in the provisions for refusing or withdrawing approval of establishments for import inspection.

5. In proposed §§ 327.5(a) and 327.6 (b) and (c), the phrase "Animal and Plant Health Inspection Service" is substituted for the phrase "Consumer and Marketing Service."

6. In § 301.2 the definition is designated (kkk).

With these changes the amendments are as follows:

PART 301—DEFINITIONS

1. A new paragraph is added to § 301.2 to read:

§ 301.2 Definitions.

* * * * *

(kkk) *Official import inspection establishment.* This term means any establishment, other than an official establishment as defined in paragraph (i) of this section, where inspections are authorized to be conducted as prescribed in § 327.6 of this subchapter.

* * * * *

PART 312—OFFICIAL MARKS, DEVICES AND CERTIFICATES

2. Section 312.7 is revised to read:

§ 312.7 Official import inspection marks and devices.

(a) When import inspections are performed in official import inspection establishments, the official inspection legend, required by Part 327 of this subchapter, to be applied to imported meat and meat food products shall be in the

appropriate form[1] as hereinafter specified:

FOR APPLICATION TO CARCASSES, PRIMAL PARTS, AND CUTS, NOT IN CONTAINERS

FOR APPLICATION TO OUTSIDE CONTAINERS

(b) When import inspections are performed in official establishments, the official inspection legend, required by Part 327 of this subchapter, to be applied to imported meat and meat food products shall be the appropriate form as specified in § 312.2 of this Part.

(c) When products are refused entry into the United States, the official mark, when required by Part 327 of this subchapter, to be applied to the products refused entry shall be in the following form:

UNITED STATES
REFUSED ENTRY

(d) Devices for applying such marks will be furnished to Program inspectors by the Department.

* * * * *

PART 327—IMPORTED PRODUCTS

3. Section 327.5 is revised to read:

[1] The number I-38 is given as an example only. The establishment number of the official import inspection establishment where the product is inspected shall be used in lieu thereof.

§ 327.5 Importer to make application for inspection of products for importation; information required.

(a) Each importer shall apply for inspection of any product for importation to the officer in charge, if one is stationed at the port where such product is to be offered for entry. Otherwise, application for inspection shall be made to the Administrator, "Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250.

(b) The application should be made as long as possible in advance of the anticipated arrival of each consignment, except in case of consignments of products expressly exempted from inspection by §§ 327.16 and 327.17.

(c) Each application shall state the approximate date on which the consignment is due to arrive at such port in the United States, the name of the ship or other carrier transporting it, the name of the country from which the product was, or is to be, shipped, the place where inspection is desired in accordance with § 327.6, the quantity and kind of product, and whether it is fresh, cured, canned or otherwise prepared. In case of consignments arriving in the United States by water, the application shall also state the port of first arrival in the United States.

4. In § 327.6, the section heading is amended, paragraphs (b) through (h) are revised, paragraphs (i) and (j) are revoked, and paragraphs (k), (l), (m), (n), and (o) are redesignated as paragraphs (i), (j), (k), (l), and (m) respectively.

§ 327.6 Products for importation; program inspection, time and place; application for approval of facilities as official import inspection establishment; refusal or withdrawal of approval; official numbers.

* * * * *

(b) All products, required by this part to be inspected, shall be inspected only at an official establishment or at an official import inspection establishment approved by the Administrator as provided in this section. Such approved official import inspection establishments will be listed in the Directory of Meat and Poultry Inspection Program Establishments, Circuits and Officials, published by the Animal and Plant Health Inspection Service. The listing will categorize the kind or kinds of product[2] which may be inspected at each official import inspection establishment, based on the adequacy of the facilities for making such inspections and handling such products in a sanitary manner.

(c) Owners or operators of facilities, other than official establishments, who want to have import inspections made at their facilities, shall apply to the Administrator for approval of their facilities for such purpose. Application shall be made on a form furnished by the Program, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C., and shall include all information called for by that form.

(d) Each applicant seeking approval of his facilities for import inspections shall submit to the Administrator necessary drawings with specifications to determine compliance with the requirements of this section. Approval shall be sought in accordance with § 304.2(a) of this subchapter. Submission of drawings is not required if the applicant's facilities are operated under a State inspection program in a State not listed in § 331.2 of this subchapter.

(e) Owners or operators of establishments at which import inspections of product are to be made shall furnish adequate sanitary facilities and equipment for examination of such product. The requirements of §§ 304.2(e), 307.1, 307.2 (b), (d), (f), (h), (k), and (l) and 308.3, 308.4, 308.5, 308.6, 308.7, 308.8, 308.9, 308.11, 308.13, 308.14, and 308.15 of this subchapter shall apply as conditions for approval of facilities as official import inspection establishments to the same extent and in the same manner as they apply with respect to official establishments.

(f) The Administrator is authorized to approve any facility as an official import inspection establishment provided that an application has been filed and drawings have been submitted in accordance with the requirements of paragraphs (c) and (d) of this section and he determines that such facility meets the requirements under paragraph (e) of this section. If it is determined that the facility does not meet such requirements, approval of the facility as an official import inspection establishment may be refused in accordance with the applicable rules of practice. A written notice, specifying the premises to which the approval applies, shall be given to each applicant granted approval. When approval is refused for any such reason, the applicant shall be informed of the action and the reason therefor. Approval may also be refused in accordance with § 401 of the act and applicable rules of practice.

(g) Approval of an official import inspection establishment may be withdrawn in accordance with applicable rules of practice if it is determined that the sanitary conditions are such that the product is rendered adulterated, that that such action is authorized by section 21(b) of the Federal Water Pollution Control Act, as amended (84 Stat. 91), or that the requirements of paragraph (e) of this section were not complied with. Approval may also be withdrawn in accordance with section 401 of the Act and applicable rules of practice.

(h) A special official number shall be assigned to each official import inspection establishment. Such number shall be used to identify all products inspected and passed for entry at the establishment.

* * * * *

5. In § 327.7, paragraph (g) is amended to read:

[2] For example: Canned product, boneless meat, carcasses and cuts.

§ 327.7 Products for importation; movement prior to inspection; sealing; handling; bond; assistance.

* * * * *

(g) The consignee or his agent shall provide such assistance as Program inspectors may require for the handling and marking of product offered for entry.

* * * * *

(Sec. 21, 34 Stat. 1260, as amended, 21 U.S.C. 601 et seq.; 29 F.R. 16210, as amended; 37 F.R. 6327, 6505)

These amendments shall become effective 30 days after publication in the FEDERAL REGISTER. However, to afford the affected industry reasonable opportunity to adjust its operations to comply with the requirements of the amendments, the Department will continue for a period of 1 year after such effective date to provide import inspection at facilities where such inspection is now provided, so long as the import inspector finds that the facilities are such that handling of product thereat will not result in adulteration of the product.

This will provide time for such persons to apply for formal approval and to provide the required drawings. New facilities must get program approval before they will qualify as official import inspection establishments.

The reporting and/or recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Done at Washington, D.C., on October 10, 1972.

RICHARD E. LYNG,
Assistant Secretary.

[FR Doc.72-17569 Filed 10-16-72;8:45 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

SUBCHAPTER C—AIRCRAFT

[Docket No. 72-EA-102, Amdt. 39-1543]

PART 39—AIRWORTHINESS DIRECTIVES

Piper Aircraft

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to models of Piper PA 23, 24, 28, 31, 32, 34, and 39 type airplanes.

As a result of reports of inadvertent activation of the Garrett RESCU/88 emergency locator transmitter for certain technical reasons, an airmail dispatch was issued on September 18, 1972, to all owners of models of the aforesaid type airplanes. The same need for immediate adoption of this amendment still exists and therefore notice and public procedure hereon are impractical and the amendment may be made effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 F.R. 13697) § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

Applies to Piper airplanes incorporating Garrett Model RESCU/88 Part No. 627484-1 Series 1 or Series 2 emergency locator transmitters with serial numbers of which the last four digits are less than 1525.

Compliance required as indicated.

(a) Before further flight, unless (b) has been accomplished, install a placard in full view of the pilot which reads "This airplane is not to be operated in IFR flight." The placard may be removed when (b) has been accomplished.

(b) Within the next 50 hours time in service after the effective date of this airworthiness directive, check for inadvertent activation of all Garrett Model RESCU/88 Part No. 627484-1 Series 1 and Series 2 emergency locator transmitters, with serial numbers of which the last four digits are less than 1525, by keying all VHF communications transmitters installed on the airplane for a period of at least 3 seconds on all tunable frequencies to within 0.5 MHz when possible throughout the VHF communications band. Replace any emergency locator transmitters which activate during this check with transmitters of the same type having serial numbers of which the last four digits are greater than 1524 or other FAA approved emergency locator transmitters. The check required by this AD may be performed by the pilot.

NOTE: During check required by paragraph (b) be prepared for immediate deactivation of the emergency locator transmitter if activation occurs.

(c) Before further flight, install, on all aircraft incorporating a Garrett Model RESCU/88 Part No. 627484-1 Series 1 emergency locator transmitter, a placard in full view of the pilot which reads "VOR indications may be affected when the VHF radio is keyed." The placard may be removed when (d) has been accomplished.

(d) Within the next 300 hours time in service after the effective date of this airworthiness directive, replace all Garrett Model RESCU/88 Part No. 672484-1 Series 1 emergency locator transmitters with Garrett Model RESCU/88 Part No. 627484-1 Series 2 emergency locator transmitters or other FAA approved locator transmitters.

(e) Upon request with substantiation data submitted through an FAA Maintenance/Avionics Inspector, the compliance time specified in this AD may be increased by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region.

NOTE: For the requirements regarding the listing of compliance and method of compliance with this AD in the airplane's permanent maintenance record, see FAR 91.173.

(Piper Service Letter No. 617 pertains to the replacement required by paragraph (d) of this AD.)

This amendment is effective October 20, 1972, and was effective for all recipients, upon receipt of the airmail dispatch dated September 18, 1972.

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

Issued in Jamaica, N.Y., on October 5, 1972.

F. A. CARBOINE,
Acting Director, Eastern Region.

[FR Doc.72-17640 Filed 10-16-72;8:47 am]

SUBCHAPTER E—AIRSPACE

[Airspace Docket No. 72-EA-80]

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

Alteration of Control Zone and Transition Area

Correction

In F.R. Doc. 72-16897 appearing on page 20806 of the issue for Wednesday, October 4, 1972, the airspace docket number was inadvertently omitted. It should read as set forth above.

[Airspace Docket No. 72-WA-10]

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

Designation of Terminal Control Area at San Francisco, Calif.

On June 1, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 10957) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate a Group I terminal control area (TCA) for San Francisco, Calif.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. Due consideration was given to all relevant matter presented.

Of the comments in objection, the substance of several went to the basic concept of the terminal control area plan itself. These comments concerned compression of traffic beneath the floors and at the edges of the TCA airspace; the additional workload placed on the controller; a questioning of the resource capability of handling VFR traffic and radar advisory service in the area; and a preference for climb and descent corridors rather than the circular area concept. Each of these objections was discussed in detail when the general air traffic rules for operation within terminal control areas were adopted in Docket No. 9880 (35 F.R. 7782), effective June 25, 1970. It is not considered necessary or appropriate to discuss them further at this point.

A total of 33 replies were received in response to the notice. Several suggested not establishing a TCA at all while others proposed reductions in the size of the airspace that would render it ineffective.

Two of the replies recommended that Area A west of San Francisco Airport be reduced to permit flights to operate outside the TCA along the Pacific coast shoreline. These comments have merit and Area A has been modified, to the extent that containment of San Francisco Runways 10 L/R approach procedures allow, by creating Area K with a floor of 1,500 feet MSL.

Another comment recommended establishing two VFR corridors through Area A, one north of San Francisco Airport over the bay at 1,000 feet and below and the other south of the airport along the San Andreas rift valley at 2,500 feet and below. Neither proposal can be adopted due to the runway configuration at San Francisco Airport. Both proposals apparently failed to consider that aircraft landing and departing Runways 01/19 would routinely penetrate the suggested corridors, a deviation from the TCA rule which would be unacceptable. Both recommended corridors would be in such proximity to the airport as to preclude necessary circle-to-land maneuvers by turbine-powered aircraft when either Runways 01 or 19 were in use.

The majority of the comments (approximately 76 percent) were from gliding and soaring interests. While there was some variation, nearly all of these comments suggested elimination of Areas E and I from the proposal to allow continued unrestricted soaring activities in the Mission Peak and Mt. Diablo areas. A meeting was held in Fremont, Calif., on August 28, 1972, with representatives of the Soaring Society of America to discuss possible solutions.

The changes recommended for Areas E and I were not adopted since the airspace within these subareas is the minimum needed to contain the radar vectoring, sequencing and descent of arrivals within the TCA. The proposed modifications would reduce the TCA to such an extent that it would not afford the degree of safety for which it was designed and would create reading problems for VFR pilots. A minor adjustment in the northern portion of Area I was made to keep the TCA wholly within airspace delegated to the Bay Terminal Radar Control (TRACON) facility.

Subsequent to the publication of the notice, a typographical error was noted in the description of a portion of the common boundary of Areas A and F. The 4-mile radius of the Oakland VORTAC referred to in the description of Areas A and F should have been the 3-mile radius. Action is taken herein to correct the error.

All other comments received, both to the notice and at a series of local FAA/pilot group meetings held over the past several weeks, have been given serious consideration. Subsequent meetings will be held from time to time to discuss how the program is going and the need for any changes.

In consideration of the foregoing, § 71.401(a) (37 F.R. 2327) of the Federal Aviation Regulations is amended, effective 0901 G.m.t., December 11, 1972, by adding the San Francisco, Calif., Group I terminal control area to read as follows:

SAN FRANCISCO, CALIF., TERMINAL CONTROL AREA

PRIMARY AIRPORT

San Francisco International Airport (latitude 37°37'07" N., longitude 122°22'35" W.), San Francisco LVOR/DME (latitude 37°37'10" N., longitude 122°22'22" W.).

Boundaries—

1. *Area A.* That airspace extending upward from the surface to and including 8,000 feet MSL within a 7-mile radius of the San Francisco (SFO) VOR extending clockwise from the SFO VOR 247° radial to the SFO VOR 127° radial and within a 5-mile radius of the SFO VOR extending clockwise from the SFO VOR 127° radial to the SFO VOR 247° radial, excluding that airspace within a 3-mile radius of the Oakland VORTAC and excluding that airspace within Area K.

2. *Area B.* That airspace extending upward from 1,500 feet MSL to and including 8,000 feet MSL bounded on the northwest by a 5-mile radius arc of the SFO VOR, on the southeast by a 10-mile radius arc of the SFO VOR, on the northeast by the SFO VOR 107° radial, and on the southwest by the SFO VOR 137° radial, excluding that airspace within Area A.

3. *Area C.* That airspace extending upward from 2,500 feet MSL to and including 8,000 feet MSL bounded on the northwest by a 10-mile radius arc of the SFO VOR, on the southeast by a 15-mile radius arc of the SFO VOR, on the northeast by the SFO VOR 107° radial, and on the southwest by the SFO VOR 137° radial.

4. *Area D.* That airspace extending upward from 4,000 feet MSL to and including 8,000 feet MSL bounded by a line beginning at the 5-mile DME point on the SFO VOR 137° radial thence southeast along the 137° radial to and counterclockwise along a 15-mile DME arc of the SFO VOR to and east along the SFO VOR 107° radial to and clockwise along the 20-mile radius DME arc of the SFO VOR to and northwest along the SFO VOR 167° radial to and counterclockwise along the 5-mile radius DME arc of the SFO VOR to the point of beginning.

5. *Area E.* That airspace extending upward from 6,000 feet MSL to and including 8,000 feet MSL bounded by a line beginning at the 5-mile DME point on the SFO VOR 167° radial thence southeast along the 167° radial to and counterclockwise along the 20-mile DME arc of the SFO VOR to and east along the SFO VOR 107° radial to and clockwise along the 25-mile DME arc of the SFO VOR to and northwest along the Point Reyes VOR TAC 161° radial to and northeast along the SFO VOR 217° radial to and counterclockwise along the 5-mile DME arc of the SFO VOR to the point of beginning.

6. *Area F.* That airspace extending upward from 2,100 feet MSL to and including 8,000 feet MSL bounded by a line beginning at the 10-mile DME point on the SFO VOR 247° radial thence clockwise along the 10-mile DME arc to and west along the SFO VOR 107° radial to and counterclockwise along the 7-mile DME arc of the SFO VOR to and clockwise along the 3-mile DME arc of the Oakland VORTAC to and counterclockwise along the 7-mile DME arc of the SFO VOR to and southwest along the SFO VOR 247° radial to the point of beginning.

7. *Area G.* That airspace extending upward from 3,000 feet MSL to and including 8,000 feet MSL between the 10- and 15-mile radii of the SFO VOR from the SFO VOR 247° radial clockwise to the SFO VOR 107° radial, excluding the airspace southwest of the Point Reyes VORTAC 161° radial.

8. *Area H.* That airspace extending upward from 4,500 feet MSL to and including 8,000 feet MSL bounded by a line beginning at the intersection of the Sausalito VORTAC 052° radial and the Oakland VORTAC 305° radial thence northeast along the Sausalito VORTAC 052° radial to and clockwise along the 20-mile DME arc of the SFO VOR to and southwest along the SFO VOR 072° radial to and counterclockwise along the 15-mile DME arc of the SFO VOR to and northwest along the Oakland VORTAC 305° radial to the point of beginning.

9. *Area I.* That airspace extending upward from 6,000 feet MSL to and including 8,000 feet MSL between the 20- and 25-mile radii of the SFO VOR from the Sausalito VORTAC 052° radial clockwise to the SFO VOR 072° radial, excluding the airspace north of latitude 38°00'00" N.

10. *Area J.* That airspace extending upward from 5,000 feet MSL to and including 8,000 feet MSL bounded on the northeast by a 5-mile radius arc of the SFO VOR, on the southeast by the SFO VOR 217° radial, on the southwest by the Point Reyes VORTAC 161° radial, and on the northwest by the SFO VOR 247° radial.

11. *Area K.* That airspace extending upward from 1,500 feet MSL to and including 8,000 feet MSL bounded on the west by a 7-mile radius arc of the SFO VOR and on the east by the Pacific coast shoreline.

(Secs. 307(a), 1110, Federal Aviation Act of 1958, 49 U.S.C. 1348(a), 1510, Executive Order 10854, 24 F.R. 9565; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on October 10, 1972.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72-17641 Filed 10-16-72;8:47 am]

[Airspace Docket No. 72-RM-16]

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

Alteration of Control Zone and Transition Area

On August 30, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 17563) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Pierre, S. Dak., control zone and transition area.

Interested persons were given 30 days in which to submit written comments, suggestions or objections. No objections have been received to this proposal.

Subsequent to the publication of the notice of proposed rule making on August 30, 1972, it was noted that the description of the Pierre, S. Dak., transition area, as it appears in § 71.181 of 37 F.R. 2056, has been amended by F.R. Doc. 72-2403 (F.R. 3509) and F.R. Doc. 72-3541 (F.R. 37 5012). Accordingly, action is taken herein to change the FEDERAL REGISTER redesignation so that it reads correctly.

Since this change is editorial in nature and imposes no additional burden on any person, notice and public procedure hereon are unnecessary.

In consideration of the foregoing in § 71.171 (37 F.R. 2056) the description of the Pierre, S. Dak., control zone is amended to read:

PIERRE, S. DAK.

Within a 5-mile radius of the Pierre Municipal Airport (latitude 44°22'50" N., longitude 100°17'15" W.); and within 1 mile each side of the Pierre ILS localizer northwest course extending from the 5-mile radius zone to 6 miles northwest of the airport.

In § 71.181 (F.R. 37 2143) the description of the Pierre, S. Dak., transition area as amended by F.R. Doc. 72-2403 (F.R. 37-3509) and F.R. Doc. 72-3541 (F.R. 37 5012) is further amended to read:

PIERRE, S. DAK.

That airspace extending upward from 700 feet above the surface within an 8½-mile radius of the Pierre Municipal Airport (latitude 44°22'50" N., longitude 100°17'15" W.); within 5 miles each side of the Pierre VORTAC 087° radial extending from the 8½-mile radius area to 7 miles east of the VORTAC; within 5 miles each side of the Pierre VORTAC 265° radial extending from the 8½-mile radius area to 18½ miles west of the VORTAC; within 5 miles each side of the Pierre ILS localizer northwest course extending from the 8½-mile radius area to 17½ miles northwest of the airport; within 3½ miles each side of the Pierre ILS localizer southeast course extending from the 8½-mile radius area to 18 miles southeast of the airport; and that airspace extending upward from 1,200 feet above the surface within a 35-mile radius of the Pierre VORTAC.

Effective date. These amendments shall be effective 0901 G.m.t., December 7, 1972.

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

Issued in Aurora, Colo., October 5, 1972.

I. H. HOOVER,
Acting Director.
Rocky Mountain Region.

[FR Doc.72-17642 Filed 10-16-72;8:47 am]

[Airspace Docket No. 72-RM-18]

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

Designation of Control Zone

On August 30, 1972 a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 17564) stating that the Federal Aviation Administration was considering amendments to Part 71 of the Federal Aviation Regulations that would designate a control zone at Butts Army Airfield, Fort Carson, Colo.

Interested persons were given 30 days in which to submit written comments, suggestions or objections. No objections have been received and the proposed amendments are hereby adopted subject to the following change:

Add to the description of the Fort Carson, Colo. control zone: "excluding the portion within the Colorado Springs, Colo. control zone."

Effective date. This amendment shall be effective 0901 G.m.t., December 7, 1972.

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

Issued in Aurora, Colo., on October 5, 1972.

I. H. HOOVER,
Acting Director,
Rocky Mountain Region.

In § 71.171 (37 F.R. 2056) the following control zone is added:

FORT CARSON, COLO.

Within a 5-mile radius of Butts Army Airfield (latitude 38°40'46" N., longitude 104°-45'41" W.) excluding the portion within the Colorado Springs, Colo. control zone. This control zone is effective during the specific dates and times established in advance by a notice to airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

[FR Doc.72-17643 Filed 10-16-72;8:47 am]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Reg. Docket No. 12298; Amdt. 95-225]

PART 95—IFR ALTITUDES

Miscellaneous Amendments

The purpose of this amendment to Part 95 of the Federal Aviation Regulations is to make changes in the IFR altitudes at which all aircraft shall be flown over a specified route or portion thereof. These altitudes, when used in conjunction with the current changeover points for the routes or portions thereof, also assure navigational coverage that is adequate and free of frequency interference for that route or portion thereof.

As a situation exists which demands immediate action in the interest of safety, I find that compliance with the notice and procedure provisions of the Administrative Procedure Act is impracticable and that good cause exists for making this amendment effective within less than 30 days from publication.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (24 F.R. 5662), Part 95 of the Federal Aviation Regulations is amended, effective November 9, 1972, as follows:

1. By amending Subpart C as follows:

Section 95.51 *Green Federal airway 11* is amended to read in part:

From, to, and MEA

Shemya, Alaska, LF/RBN; Amchitka, Alaska, LF/RBN; 6,000.
Amchitka, Alaska, LF/RBN; Adiak, Alaska, LF/RBN; *8,000. *7,900—MOCA.

Section 95.1001 *Direct routes—United States* is amended by adding:

Yellowtail INT, S.C., Carolina Beach, S.C., RBN (via Control 1151); *2,500. *1,200—MOCA.
Quitman, Tex., VOR; Tulsa, Okla., VOR; *9,000. *3,000—MOCA.

Section 95.1001 *Direct routes—United States* is amended to delete:

Ashley, S.C., RBN; Smelt INT, S.C. (via Control 1152); 2,500; MAA 45,000.

Section 95.1001 *Direct routes—United States* is amended to read in part:

Bimini, Bahamas, RBN; Carolina Beach, N.C., RBN (via Control 1150); 2,500.
Nassau Bahamas, RBN; Carolina Beach, N.C., RBN (via Control 1151); 2,500.
College Station, Tex., VOR; Tracy INT, Tex.; *2,700. *2,100—MOCA.
College Station, Tex., VOR; Int. CLL VOR 293 and ACT, VOR 187; *3,900. *2,100—MOCA.

Section 95.5000 *High Altitude RNAV Routes:*

From/to; total distance; changeover point, distance from geographic location; track angle; MEA; and MAA

J802R is amended to read in part:
Furnace, Pa., W/P, Shiloh, Ohio, W/P; 204.3; 102.3, Furnace; 40°48'29" N., 80°16'16" W.; 284°/104° to COP, 276°/096° to Shiloh; 18,000; 45,000.

J812R is amended to read in part:
Borden, Ind., W/P, Foresman, Ind., W/P; 144.3; 52.3, Borden, 39°25'55" N., 86°26'50" W.; 335°/155° to COP; 339°/159° to Foresman; 18,000; 45,000.

J819R is amended to read in part:
Merrimack, Mass., W/P; Spad, N.Y., W/P; 147.1; 100.0, Merrimack, 42°57'57" N., 73°38'12" W.; 294°/114° to COP, 288°/108° to Spad; 18,000; 45,000.

J844R is amended to read in part:
Borden, Ind., W/P, Foresman, Ind., W/P; 144.3; 52.3, Borden, 39°25'55' N., 86°26'50" W.; 335°/155° to COP, 339/159° to Foresman; 18,000; 45,000.

J863R is amended to read in part:
Galax, Va., W/P, Lanier, Ga., W/P; 194.1; 50.0, Galax, 35°58'34" N., 81°33'17" W.; 231°/051° to COP, 229°/049° to Lanier; 18,000; 45,000.

J864R is amended to read in part:
Tippecanoe, Ind., W/P, Rosewood, Ohio, VORTAC; 101.3; 50.7, Tippecanoe, 40°41'58" N., 85°00'29" W.; 117°/297° to COP, 121°/301° to Rosewood; 18,000; 45,000.

J880 is amended to read in part:
Henderson, W. Va., W/P, Rittman, Ohio, W/P; 135.2; 67.6, Henderson, 39°52'34" N., 81°53'01" W.; 009°/189° to COP, 010°/190° to Rittman; 18,000; 45,000.

J890R is amended to read in part:
Mayhue, Ind., W/P, Prairie, Ill., W/P; 201.1; 116.1, Mayhue, 39°24'03" N., 88°07'14" W.; 253°/073° to COP, 248°/068° to Prairie; 18,000; 45,000.

J897R is amended to read in part:
Furnace, Pa., W/P, Shiloh, Ohio, W/P; 204.3; 102.3, Furnace, 40°48'29" N., 80°16'16" W.; 284°/104° to COP, 276°/096° to Shiloh; 18,000; 45,000.

J907R is amended to read in part:
Humble, Tex., W/P, Austin, Tex., W/P; 124.4; 62.2, Humble, 30°07'55" N., 96°31'22" W., 272°/092° to COP, 270°/090° to Austin; 18,000; 45,000.
Austin, Tex., W/P, Junction, Tex., W/P; 111.1; 55.5, Austin, 30°27'10" N., 98°45'26" W.; 271°/091° to COP, 268°/088° to Junction; 18,000; 45,000.

J934R is amended to read in part:
Greater Southwest, Tex., VORTAC, 155.2; Texarkana, Ark., W/P; 77.6, Greater Southwest, 33°10'29" N., 95°33'44" W.; 065°/245° to COP, 068°/248° to Texarkana; 18,000; 45,000.

J952R is amended to read in part:

Coyle, N.J., VORTAC, Gordonsville, Va., W/P; 205.1; 102.5, Coyle, 38°56'01" N., 76°18'39" W.; 249°/069° to COP, 244°/064° to Gordonsville; 18,000; 45,000.

J954R is amended to read in part:

Martinsburg, W. Va., W/P, Balsam, Ohio, W/P; 162.6; 120.6, Martinsburg, 40°12'44" N., 80°13'35" W.; 302°/122° to COP, 294°/114° to Balsam; 18,000; 45,000.

40°12'44" N., 80°13'35" W.; 302°/122° to COP, 294°/114° to Balsam; 18,000; 45,000.

Balsam, Ohio, W/P, Burt, Ohio, W/P; 105.3; 315°/135° to Burt; 18,000; 45,000.

J972R is amended to read in part:

Waco, Tex., W/P, Austin, Tex., W/P; 84.7; 42.3, Waco, 30°58'51" N., 97°29'12" W., 186°/006° to COP, 186°/006° to Austin; 18,000; 45,000.

J989R is amended to read in part:

Hamlet, N.Y., W/P, Wixom, Mich., W/P; 198.6; 43.9, Hamlet, 42°24'45" N., 80°04'53" W., 285°/105° to COP, 277°/097° to Wixom; 18,000; 45,000.

Section 95.6112 *VOR Federal airway 112* is amended to read in part:

From, to, and MEA

Lamar INT, Oreg.; *Rodna INT, Wash.; **5,000. *6,000—MRA. **4,400—MOCA.

Rodna INT, Wash.; Spokane, Wash., VOR; 5,000.

Section 95.6131 *VOR Federal airway 131* is amended to read in part:

McAlester, Okla., VOR; *Hoffman INT, Okla.; **2,700. *4,700—MRA. **2,300—MOCA.

Hoffman INT, Okla.; Okmulgee, Okla., VOR; *2,700. *2,300—MOCA.

Section 95.6159 *VOR Federal airway 159* is amended to read in part:

Albany, Ga., VOR; *Shellman INT, Ga.; **2,000. *2,800—MRA. **1,700—MOCA.

Section 95.6163 *VOR Federal airway 163* is amended to read in part:

San Antonio, Tex., VOR; Winters INT, Tex.; *3,300. *3,100—MOCA.

Winters INT, Tex.; *Wirtz INT, Tex.; **4,000. *3,300—MRA. **3,000—MOCA.

San Antonio, Tex., VOR, via W alter.; *Guadalupe INT, Tex., via W alter.; **3,000. *4,300—MRA. **2,500—MOCA.

Guadalupe INT, Tex., via W alter.; Llano, Tex., VOR, via W alter.; *4,000. *3,200—MOCA.

Section 95.6187 *VOR Federal airway 187* is amended to read in part:

Missoula, Mont., VOR; Rivulet INT, Mont.; 10,000.

Rivulet INT, Mont.; Orofino INT, Idaho; *13,000. *9,400—MOCA.

Section 95.6306 *VOR Federal airway 306* is amended to read in part:

Austin, Tex., VOR; Elgin INT, Tex.; *2,500. *2,000—MOCA.

Elgin INT, Tex.; Navasota, Tex., VOR; *2,500. *1,800—MOCA.

Section 95.6453 *VOR Federal airway 453* is amended to read in part:

Dillingham, Alaska, VOR; Eek DME Fix, Alaska; 6,500.

Eek DME Fix, Alaska; Bethel, Alaska, VOR; *4,000. *1,500—MOCA.

King Salmon, Alaska, VOR; via S alter.; Dillingham, Alaska, VOR; via S alter.; *2,000.

*MEA 6,500 feet westbound when Dillingham FSS shutdown.

Section 95.6497 *VOR Federal airway 497* is amended to read in part:

Kimberly, Oreg., VOR; The Dalles, Oreg., VOR; 7,300.

Section 95.6500 *VOR Federal airway 500* is amended to read in part:

Gateway INT, Oreg.; Kimberly, Oreg., VOR; *8,500. *7,900—MOCA.

Kimberly, Oreg., VOR; *Harper INT, Oreg.; 11,000. *11,700—MRA.

Section 95.7003 *Jet Route No. 3* is amended by adding:

From, to, MEA, and MAA

Kimberly, Oreg., VORTAC; Spokane, Wash., VORTAC; 18,000; 45,000.

Section 95.7003 *Jet Route No. 3* is amended to delete:

John Day, Oreg., VORTAC; Spokane, Wash., VORTAC; 18,000; 45,000.

Section 95.7015 *Jet Route No. 15* is amended by adding:

Kimberly, Oreg., VORTAC; Portland, Oreg., VORTAC; 18,000; 45,000.

Section 95.7015 *Jet Route No. 15* is amended to delete:

John Day, Oreg., VORTAC; Portland, Oreg., VORTAC; 18,000; 45,000.

Section 95.7021 *Jet Route No. 21* is amended by adding:

Austin, Tex., VORTAC; Waco, Tex., VORTAC; 18,000; 45,000.

Waco, Tex., VORTAC; Greater Southwest, Tex., VORTAC; 18,000; 45,000.

Section 95.7021 *Jet Route No. 21* is amended to delete:

Austin, Tex., VORTAC; Greater Southwest, Tex., VORTAC; 18,000; 45,000.

Section 95.7025 *Jet Route No. 25* is amended by adding:

Austin, Tex., VORTAC; Waco, Tex., VORTAC; 18,000; 45,000.

Waco, Tex., VORTAC; Greater Southwest, Tex., VORTAC; 18,000; 45,000.

Section 95.7025 *Jet Route No. 25* is amended to delete:

Austin, Tex., VORTAC; Greater Southwest, Tex., VORTAC; 18,000 45,000.

Section 95.7102 *Jet Route No. 102* is amended by adding:

Phoenix, Ariz., VORTAC; Zuni, N. Mex., VORTAC; 18,000 45,000.

Zuni, N. Mex., VORTAC; Alamosa, Colo., VORTAC; [1] 18,000 45,000.

Section 95.7102 *Jet Route No. 102* is amended to delete:

Phoenix, Ariz., VORTAC; Gallup, N. Mex., VORTAC; 18,000 45,000.

Gallup, N. Mex., VORTAC; Alamosa, Colo., VORTAC; 18,000 45,000.

Section 95.7123 *Jet Route No. 123* is amended to read in part:

Kotzebue, Alaska, VORTAC; Browerville, Alaska, LF/RBN; [1] 18,000 45,000.

[1] MEA is established with a gap in navigation signal coverage.

[1] MEA is established with a gap in navigation signal coverage.

Section 95.7157 *Jet Route No. 157* is deleted.

Section 95.7161 *Jet Route No. 161* is amended to read:

Zuni, N. Mex., VORTAC; Farmington, N. Mex., VORTAC; 18,000 45,000.

Section 95.7163 *Jet Route No. 163* is deleted.

Section 95.7507 *Jet Route No. 507* is amended to read in part:

Browerville, Alaska, LF/RBN; Oliktok, Alaska, LF/RBN; 18,000; 45,000.

Section 95.7511 *Jet Route No. 511* is amended to read in part:

Dillingham, Alaska, VORTAC; Anchorage, Alaska, VORTAC; 18,000; 45,000.

Section 95.7515 *Jet Route No. 515 is* amended to read in part:

Bettles, Alaska, VOR; Browerville, Alaska, LF/RBM; 18,000; 45,000.

2. By amending Subpart D as follows:

Section 95.8005 *Jet Routes changeover points:*

Airway segment, from, to, and changeover points, distance from

J–102 is amended to delete:

Gallup, N. Mex., VORTAC; Alamosa, Colo., VORTAC; 99; Gallup.

J–515 is amended to read in part:

Bettles, Alaska, VOR; Browerville, Alaska, LF/RBN; 150; Bettles.

Section 95.6007 *VOR Federal airway 7* is amended to read in part:

From, to, and MEA

Lewis, Ind., VOR; Terre Haute, Ind., VOR; *2,400. *1,900—MOCA.

Miami, Fla., VOR; *Westland IN, Fla.; **2,000. *2,500—MRA. *3,300—MCA, Westland INT, Northwestbound. **1,300—MOCA.

Section 95.6010 *VOR Federal airway 10* is amended to read in part:

Bradford, Ill., VOR; Plano INT, Ill.; *2,500. *2,100—MOCA.

Plano INT, Ill.; Naperville, Ill., VOR; *2,700. *2,100—MOCA.

Section 95.6017 *VOR Federal airway 17* is amended to read in part:

San Antonio, Tex., VOR; via E alter.; Elroy INT, Tex., via E alter.; 3,000.

Elroy INT, Tex., via E alter.; Bergstrom INT, Tex., via E alter.; *3,000. *2,300—MOCA.

Bergstrom INT, Tex., via E alter.; Austin, Tex., VOR, via E alter.; *3,000. *1,900—MOCA.

Walburg INT, Tex.; Belton INT, Tex.; *2,500. *2,200—MOCA.

Belton INT, Tex.; Pendleton INT, Tex.; *2,400. *2,200—MOCA.

Pendleton INT, Tex.; Waco, Tex., VOR; *2,400. *2,000—MOCA.

Section 95.6021 *VOR Federal airway 21* is amended to read in part:

Hurricane INT, Utah, via E alter.; Cedar City, Utah, VOR, via E alter., 12,000.

Section 95.6023 *VOR Federal airway 23* is amended to read in part:

Yuba INT, Calif.; Gridley INT, Calif.; *4,000. *3,300—MOCA.

Section 95.6066 *VOR Federal airway 66* is amended to read in part:

Athens, Ga., VOR, via S alter.; Vesta INT, Ga., via S alter.; *3,000. *2,300—MOCA.

Vesta INT, Ga., via S alter.; Greenwood, S.C., VOR, via S alter.; *4,000. *2,100—MOCA.

Greenwood, S.C., VOR, via S alter.; Pinehurst, N.C., VOR, via S alter.; *4,000. *2,100—MOCA.

Section 95.6067 *VOR Federal airway 67* is amended to read in part:

Centralia, Ill., VOR; Hookdale INT, Ill.; *2,400. *2,100—MOCA.

Hookdale INT, Ill.; Vandalia, Ill., VOR; *2,400. *1,900—MOCA.

Section 95.6076 *VOR Federal airway 76* is amended by adding:

Austin, Tex., VOR, via N alter.; Elgin INT, Tex., via N alter; *2,500. *2,000—MOCA.
Elgin INT, Tex., via N alter.; Industry, Tex., VOR, via N alter; *2,500. *1,800—MOCA.

Section 95.6076 *VOR Federal airway 76* is amended to read in part:

Llano, Tex., VOR, via S alter.; *Wirtz INT, Tex., via S alter.; **3,300. *3,300—MRA. **1,900—MOCA.
Wirtz INT, Tex., via S alter; Capitol INT, Tex., via S alter.; *3,000. *1,900—MOCA.
Capitol INT, Tex., via S alter.; Austin, Tex., VOR, via S alter.; 3,000.
Austin, Tex., VOR; *Butler INT, Tex.; **2,400. *3,000—MRA. **2,000—MOCA.
Butler INT, Tex.; Industry, Tex., VOR; *2,500. *1,800—MOCA.

Section 95.6102 *VOR Federal airway 102* is amended to read in part:

Chip River INT, Alaska; Browerville, Alaska, LF/RBN; *2,000. *1,900—MOCA.

(Secs. 307, 1110, Federal Aviation Act of 1958, 49 U.S.C. 1348, 1510)

Issued in Washington, D.C. on October 5, 1972.

C. R. MELUGIN, Jr.,
Acting Director,
Flight Standards Service.

[FR Doc.72-17549 Filed 10-16-72;8:45 am]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. C-2284]

PART 13—PROHIBITED TRADE PRACTICES

Cumberland Packing Corp. et al.

Subpart—Advertising falsely or misleadingly: § 13.10 *Advertising falsely or misleadingly;* § 13.170 *Qualities or properties of product or service:* 13.170-64 Nutritive; § 13.280 *Unique nature or advantages.* Subpart—Misrepresenting oneself and goods—Goods: § 13.1710 *Qualities or properties;* § 13.1770 *Unique nature or advantages.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Cumberland Packing Corp. et al., New York, N.Y., Docket No. C-2284, Sept. 13, 1972]

In the Matter of Cumberland Packing Corp., a Corporation, and Benjamin Eisenstadt, Marvin E. Eisenstadt, Betty Eisenstadt, and Ira Eisenstadt, Individually and as Officers of said Corporation; and Stiefel/Raymond Advertising, Inc., a Corporation

Consent order requiring a Brooklyn, N.Y., manufacturer and seller of a sugar product and its New York City advertising agency, among other things to cease representing that their product is organically grown: Representing that their product has not been processed; and misrepresenting the nutritional value of their product.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

I. *It is ordered,* That respondent Cumberland Packing Corp., a corporation, and its officers, and Benjamin Eisenstadt, Marvin E. Eisenstadt, Betty Eisenstadt and Ira Eisenstadt, individually and as officers of said corporation, and Stiefel/Raymond Advertising, Inc., a corporation, and its officers, and respondents' successors, assigns, agents, representatives and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, offering for sale, sale or distribution of any sugar sold for consumer use forthwith cease and desist from:

1. Disseminating, or causing the dissemination of, an advertisement by means of the U.S. mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which represents, directly or by implication, that:

(a) Any such product has been grown without the use of chemical fertilizers or pesticides; or specifically that any such product is "organic," in that it has been organically grown.

(b) Any such product has not been processed.

(c) Any such product supplies any amount of a vitamin or mineral unless the amount is above five (5) percent of the recommended daily dietary allowance or ten (10) percent of the minimum daily requirement and is clearly and conspicuously stated in terms of percentage of whichever standard is used.

(d) Any such product is in any way more nutritious than any other product which is substantially identical in composition.

(e) Any such product differs from or is superior to any other such product because no chemicals or preservatives have been added.

2. Disseminating, or causing the dissemination of, any advertisement by means of the U.S. mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which misrepresents, in any manner, the nutritional value of any such product.

3. Disseminating, or causing the dissemination of, any advertisement by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of any such product, in commerce, as "commerce" is defined in the Federal Trade Commission Act which contains any of the representations prohibited in subparagraph 1, above, or the misrepresentation prohibited in subparagraph 2, above.

II. *It is further ordered,* That respondent Cumberland Packing Corp., a corporation, and its officers, and Benjamin Eisenstadt, Marvin E. Eisenstadt, Betty Eisenstadt and Ira Eisenstadt, individually and as officers of said corporation, and their successors, assigns, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, labeling, offering for sale, sale, or distribution of any sugar sold for consumer use in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from making, directly or by implication, any statement or representation that:

1. Any such product has been grown without the use of chemical fertilizers or pesticides; or specifically that any such product is "organic," in that it has been organically grown.

2. Any such product has not been processed.

3. Any such product supplies any amount of a vitamin or mineral unless the amount is above five (5) percent of the recommended daily dietary allowance or ten (10) percent of the minimum daily requirement and is clearly and conspicuously stated in terms of percentage of whichever standard is used.

4. Any such product is in any way more nutritious than any other product which is substantially identical in composition.

5. Any such product differs from or is superior to any other such product because no chemicals or preservatives have been added.

It is further ordered, That repondents shall forthwith distribute a copy of this order to each of their operating divisions.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondents such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporations which may affect compliance obligations arising out of the order.

It is further ordered, That respondents shall, within sixty (60) days after service of the order upon it, file with the Commission a report in writing setting forth in detail the manner and form of its compliance with the order to cease and desist.

Issued: September 13, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.72-17668 Filed 10-16-72;8:50 am]

[Docket No. C-2285]

PART 13—PROHIBITED TRADE PRACTICES

Fairfax Family Fund, Inc., and Spiegel, Inc.

Subpart—Advertising falsely or misleadingly: § 13.10 *Advertising falsely or misleadingly;* § 13.73. *Formal regulatory and statutory requirements:* 13.73–92 Truth in Lending Act; § 13.155 *Prices:* 13.155–95 Terms and conditions: 13.155–95(a) Truth in Lending Act. Subpart—Furnishing means and instrumentalities of misrepresentation or deception: § 13.1055 *Furnishing means and instrumentalities of misrepresentation or deception.* Subpart—Misrepresenting oneself and goods—Goods: § 13.1623 *Formal regulatory and statutory requirements:* 13.1623–95 Truth in Lending Act; —Prices: § 13.1823 *Terms and conditions:* 13.1823–20 Truth in Lending Act; —Services: § 13.1843 *Terms and conditions.* Subpart—Neglecting, unfairly or receptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852–75 Truth in Lending Act; § 13.1855 *Identity;* § 13.1905 *Terms and conditions:* 13.1905–60 Truth in Lending Act. Subpart—Offering unfair, improper, and deceptive inducements to purchase or deal: § 13.1925 *Coupon, certificate, check, credit voucher, etc., deductions in price.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147; 15 U.S.C. 45, 1601–1605) [Cease and desist order, Fairfax Family Fund, Inc., et al., Louisville, Ky., Docket No. C-2285, Sept. 13, 1972]

In the Matter of Fairfax Family Fund, Inc., a Corporation, and Spiegel, Inc., a Corporation

Consent order requiring a Chicago, Ill., and Louisville, Ky., mail-order loan organization to cease, among other things, using any facsimile of a negotiable check or cash voucher as a loan application; failing to label all loan applications as "loan application"; representing that only the customer's signature is required to consummate loans; misrepresenting the benefits to be derived from procurement of a loan through respondents; and failing to disclose to customers information required by Regulation Z of the Truth in Lending Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents, Spiegel, Inc. and Fairfax Family Fund, Inc., corporations, their successors and assigns, and their officers, agents, representatives, and employees, directly or through any corporate or other device, in connection with the advertising, solicitation, or consummation of loans in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Use of a form of loan application which is a facsimile of a check and which represents, directly or by implication, that it is a negotiable check or a cash voucher or other similar negotiable instrument.

2. Failure to clearly, conspicuously, and prominently label all loan applications as "loan application."

3. Failure to affirmatively disclose in writing on each loan application form that the loan will be subject to credit approval by respondents, unless such is not true; and making a representation, directly or by implication, that only the consumer's signature is needed to consummate the loan, unless such is true.

4. Failure to inform the applicant for a loan that the loan will not be authorized prior to credit approval, unless such is true.

5. Making a representation, directly or by implication, in any comparison or example, that the consumer can reduce his present monthly payments substantially by taking advantage of respondents' loan offer or that his loan cost without inclusion of the finance charge is comparable to his present indebtedness which includes finance charges, unless such comparison or example is, in fact, true.

6. Failure to inform the consumer of the actual cash amount he will receive after the deduction for the cost of credit life insurance if the credit life insurance is procured through respondents.

7. Misrepresenting in any manner the benefits to be derived, through debt consolidation or otherwise, from the procurement of a loan from respondents.

8. Making a representation to the consumer that he has a choice of credit life insurers, unless the consumer, in fact, has such a choice.

9. Failure to provide a clear and conspicuous place for the consumer to indicate his desire to use the insurer of his own choice when that option is provided by respondents.

It is further ordered, That respondents Spiegel, Inc., and Fairfax Family Fund, Inc., corporations, their successors and assigns, and their officers, agents, representatives, and employees, directly or through any corporate or other device, in connection with any extension of consumer credit or in connection with any advertisement to aid, promote, or assist directly or indirectly any extension of consumer credit, as "consumer credit" and "advertisement" are defined in Regulations Z (12 CFR Part 226) of the Truth in Lending Act (Public Law 90–321, 15 U.S.C. 1601 et seq.), do forthwith cease and desist from:

1. Failure to disclose the "amount financed," using that term, as required by § 226.8(d)(1) of Regulation Z.

2. Failure to disclose the annual percentage rate clearly, conspicuously, and in meaningful sequence, as required by § 226.6(a) of Regulation Z.

3. Failure to disclose the "total of payments," using that term, as required by § 226.8(b)(3) of Regulation Z.

4. Stating in any advertisement the amount of any installment payment or the number of installments or the period of repayment, unless all of the following items are stated in the manner and form prescribed by § 226.10(d)(2) of Regulation Z:

(i) The amount of the loan;

(ii) The number, amount, and due dates or period of payments scheduled to repay the indebtedness if the credit is extended;

(iii) The amount of the finance charge expressed as an annual percentage rate; and

(iv) The sum of payments.

5. Failure to set forth in multipage advertising, when setting forth one or more of the following credit terms other than in a schedule of credit terms contained in the multipage advertisement, all of the credit terms as required by § 226.10(d) of Regulation Z; or in the alternative, referring to such schedule by stating in immediate conjunction with the specific credit term, in print of at least equal prominence to such term, "for full disclosure of credit terms, see page ------," wherever any of the following appears:

(i) The amount of the loan;

(ii) The number, amount, and due dates or period of payments scheduled to repay the indebtedness if the credit is extended;

(iii) The amount of the finance charge expressed as an annual percentage rate; and

(iv) The sum of the payments.

However, the disclosure of (i) or (iii) above, either separately or together, does not require any of the disclosures set forth in § 226.10(d)(2) of Regulation Z.

6. Failure in any consumer credit transaction or advertisement, to make all disclosures, determined in accordance with §§ 226.4 and 226.5 of Regulation Z, in the manner, form, and amount required by §§ 226.6, 226.7, 226.8, 226.9, and 226.10 of Regulation Z.

It is further ordered, That respondents shall deliver a copy of this order to all of their personnel engaged in the consummation of any extension of consumer credit or engaged in any aspect of the preparation, creation, or placing of advertising, and that respondents secure a signed statement acknowledging receipt of said order from each such person.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondents such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporations which may affect compliance obligations arising out of this order.

It is further ordered, That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Issued: September 13, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.72-17670 Filed 10-16-72;8:50 am]

[Docket No. C-2289]

PART 13—PROHIBITED TRADE PRACTICES

Georgia Fabric Corp. and Elliott I. Reich

Subpart—Advertising falsely or misleadingly: § 13.30 *Composition of goods:* 13.30–75 Textile Fiber Products Identification Act; § 13.73 *Formal regulatory and statutory requirements:* 13.73–90 Textile Fiber Products Identification Act; § 13.155 *Prices:* 13.155–80 Retail as cost, wholesale, discounted, etc.; 13.155–85 Sales below cost. Subpart—Concealing, obliterating or removing law required and informative marking: § 13.523 *Textile fiber products tags or identification.* Subject—Furnishing false guaranties: § 13.1053 *Furnishing False Guaranties:* 13.1053–80 Textile Fiber Products Identification Act. Subpart—Misbranding or mislabeling: § 13.1185 *Composition:* 13.1185–80 Textile Fiber Products Identification Act; 13.1185–90 Wool Products Labeling Act; § 13.1212 Formal regulatory and statutory requirements: 13.1212–80 Textile Fiber Products Identification Act; 13.1212–90 Wool Products Labeling Act. Subpart—Misrepresenting oneself and goods—Prices: § 13.1820 *Retail as cost, etc., or discounted;* § 13.1822 *Sales below cost.* Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852–70 Textile Fiber Products Identification Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 72 Stat. 1717, secs. 2–5, 54 Stat. 1128–1130, 15 U.S.C. 45, 70, 68) [Cease and desist order, Georgia Fabric Corp., et al., Atlanta, Ga., Docket No. C–2289, Sept. 21, 1972]

In the Matter of Georgia Fabric Corp., a Corporation, and Elliott I. Reich, Individually and as an Officer of Georgia Fabric Corp.

Consent order requiring an Atlanta, Ga., purchaser and wholesaler of fabrics, among other things to cease falsely advertising, deceptively guaranteeing, and misbranding his textile fiber products; misbranding the fiber content of his wool products; and misrepresenting the prices of certain products as being at "cost or below" and discounted from the "regular" price.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Georgia Fabric Corp., a corporation, its successors and assigns, and its officers, and Elliott I. Reich, individually and as an officer of Georgia Fabric Corp., and respondents' representatives, agents, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the introduction, manufacture for introduction, sale, advertising, or offering for sale, in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, of any textile fiber product which has been advertised or offered for sale, in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, after shipment in commerce, of any textile fiber product, whether in its original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from:

A. Misbranding textile fiber products by:

1. Falsely or deceptively stamping, tagging, labeling, invoicing, advertising, or otherwise identifying such products as to the name or amount of the constituent fibers contained therein.

2. Failing to affix a stamp, tag, label or other means of identification to each such product showing in a clear, legible and conspicuous manner each element of information required to be disclosed by section 4(b) of the Textile Fiber Products Identification Act.

B. Removing or mutilating, or causing or participating in the removal or mutilation of, the stamp, tag, label, or other identification required by the Textile Fiber Products Identification Act to be affixed to any textile fiber product, after such textile fiber product has been shipped in commerce, and prior to the time such textile fiber product is sold and delivered to the ultimate consumer without substituting therefor labels conforming to section 4 of said Act and the rules and regulations promulgated thereunder and in the manner prescribed by section 5(b) of the Act.

C. Failing to maintain and preserve, as required by section 6(b) of the Textile Fiber Products Identification Act, such records of the fiber content of textile fiber products as will show the information set forth on the stamps, tags, labels, or other identification removed by respondents, together with the name or names of the person or persons from whom such textile fiber products were received, when substituting stamps, tags, labels, or other identification pursuant to section 5(b) of the Textile Fiber Products Identification Act.

D. Advertising textile fiber products by disclosing or implying fiber content in any written advertisement which is used to aid, promote, or assist directly or indirectly in the sale or offering for sale of such textile fiber products, unless the same information as that required to be shown on the stamp, tag, label, or other identification under section 4(b) (1) and (2), Textile Fiber Products Identification Act, is contained in the heading, body, or other part of such written advertisement, except that the percentages of the fibers present in the textile fiber product need not be stated.

It is further ordered, That respondents Georgia Fabric Corp., a corporation, its successors and assigns, and its officers, and Elliott I. Reich, individually and as an officer of Georgia Fabric Corp., and respondents' representatives, agents, and employees, directly or through any corporation, subsidiary, division, or other device, do forthwith cease and desist from furnishing a false guaranty that any textile fiber product is not misbranded or falsely or deceptively invoiced or advertised under the provisions of the Textile Fiber Products Indentification Act.

It is further ordered, That respondents Georgia Fabric Corp., a corporation, its successors and assigns, and its officers, and Elliott I. Reich, individually and as an officer of Georgia Fabric Corp., and respondents' representatives, agents, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the introduction, or manufacture for introduction, into commerce, or the offering for sale, sale, transportation, distribution, delivery for shipment or shipment, in commerce, of wool products, as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding such products by:

Failing to securely affix to, or place on, each such product a stamp, tag, label, or other means of identification showing in a clear and conspicuous manner each element of information required to be disclosed by section 4(a)(2) of the Wool Products Labeling Act of 1939.

It is further ordered, That respondents Georgia Fabric Corp., a corporation, its successors and assigns, and its officers, and Elliott I. Reich, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the offering for sale, sale or distribution of fabrics or any other articles of merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing the price of any fabrics or any other articles of merchandise as being "reg.", "regular", "regularly", "usually", "normally", or any other term of like import, unless the price quoted is the actual bona fide price at which the described fabrics or any other articles of merchandise were openly and actively offered by respondents to the purchasing public on a regular basis for a reasonably substantial period of time in the recent, regular course of business.

2. Representing any fabrics or any other articles of merchandise as being offered for sale at "Below Our Cost", "Below Cost", or other terminology of like meaning, unless such fabrics or any other articles of merchandise are being offered by respondents at below actual purchase invoice cost.

3. Misrepresenting in any manner, the amount of savings available to purchasers of respondents' fabrics or any other articles of merchandise or the amount by which the price of fabrics or any other articles of merchandise have been usually and customarily sold by respondents in the recent regular course of business or from the prices at which they have

been usually and customarily sold at retail in the trade area where the representations are made.

4. Failing to maintain full and adequate records disclosing the facts upon which any pricing claims are based.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent, Georgia Fabric Corp., such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business address and a statement as to the nature of the business or employment in which he is engaged as well as a description of his duties and responsibilities.

It is further ordered, That the respondent corporation, Georgia Fabric Corp., shall forthwith distribute a copy of the order to each of its operating divisions.

It is further ordered, That respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Issued: September 21, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.72-17669 Filed 10-16-72;8:50 am]

[Docket No. C-2286]

PART 13—PROHIBITED TRADE PRACTICES

Steven Lewis et. al.

Subpart—Advertising falsely or misleadingly: § 13.60 *Earnings and profits:* § 13.170 *Qualities or properties of product or service:* 13.170-70 Preventive or protective; § 13.225 *Services.* Subpart—Misrepresenting oneself and goods—Goods: § 13.1615 *Earnings and profits:* § 13.1710 *Qualities or properties:*—Services § 13.1843 *Terms and conditions.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Steven Lewis, Hollywood, Calif., Docket No. C-2286, Sept. 19, 1972]

In the Matter of Steven Lewis, an Individual Formerly Trading and Doing Business as The Steven Lewis Co., and Twenty First Century Industries, Inc., a corporation and Steven Lewis, Individually, and as an Officer and Said Corporation

Consent order requiring two former Hollywood, Calif., franchisors of distributorships of cologne and other products and their successor firm, among other things to cease representing the past earnings of distributors or franchisees unless past earnings represent a substantial number of distributors or franchisees; misrepresenting the amount of time and effort respondents will spend to obtain accounts for their distributors or franchisees; misrepresenting the prior experience or necessary training required by distributors or franchisees in order to operate successfully; and misrepresenting the nature, character, performance or efficacy of any product. Respondents are further required to furnish all prospective franchisees with a written statement giving, among other things, rights and obligations of all parties, complete financial details of the agreement, and a list of previous purchasers. Also, franchisees must be allowed 5 days in which to cancel the contract for any reason with a refund of all moneys by respondent.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents, Steven Lewis, an individual formerly trading and doing business as The Steven Lewis Co., and Twenty First Century Industries, Inc., a corporation and its officers, and Steven Lewis, individually and as an officer of said corporation, their successors and assigns, and respondents' officers, agents, representatives, and employees, directly or through any corporate or other device or through any distributor or franchisee, in connection with the advertising, offering for sale, sale or distribution of men's cologne, Ronson products, Life Breathers, greeting cards or any other products or of distributorships or franchises in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Directly or by implication:

A. Representing that distributors or franchisees will earn or can reasonably expect to earn or receive any stated or gross or net amount of earnings or profits; or representing, in any manner, the past earnings of distributors or franchisees unless in fact the past earnings represented are those of a substantial number of distributors or franchisees and accurately reflect the average earnings of said distributors or franchisees under circumstances similar to those of the person to whom the representation is made.

B. Representing that respondents, their agents, representatives, or employees will secure profitable customers or accounts for purchasers of respondents' distributorships or franchises or misrepresenting, in any manner, the amount of time and effort respondents will spend in attempting to obtain such customers or accounts for their distributors or franchisees.

C. Representing that purchasers of respondents' distributorships or franchises will not be required to sell products or engage in sales activities with potential customers in order to operate and maintain the distributorship or franchise successfully or misrepresenting, in any manner, the amount and type of work required of distributors or franchisees in order to operate and maintain the distributorship or franchise successfully.

D. Representing that prior business experience is not required of purchasers of respondents' distributorships or franchises in order to operate and maintain the distributorship or franchise successfully or misrepresenting, in any manner, the prior experience required of distributors or franchisees in order to operate and maintain the distributorship or franchise successfully.

E. Representing that purchasers of respondents' distributorships or franchises will be trained in the operation of their distributorship or franchise or misrepresenting, in any manner, the quality, amount or nature of respondents' contribution to the training of their distributors of franchisees.

F. Representing that respondents' Life Breather product is an effective device for the prevention of death or injury from asphyxiation or otherwise misrepresenting, in any manner, the nature, character, performance, or efficacy of any product.

2. Representing that respondents will secure cash sale or open account sale customers or accounts, for each distributor or franchisee, or will obtain orders for merchandise for each distributor or franchisee from customers or accounts with payment to be remitted directly to the distributor or franchisee or misrepresenting, in any manner, the number or type of customers or accounts respondents will secure or the selling services or assistance that respondents will provide their distributors or franchisees.

3. Representing that any product or products or sales aids, offered for sale or sold by respondents to their distributors or franchisees, will be delivered to said distributors or franchisees on or before a particular date, or within a specified time period, unless respondents have available, or in stock, all such products or sales aids in quantities sufficient to meet all reasonably anticipated orders.

4. Representing that respondents will provide their distributors or franchisees with sales literature, promotional literature, instruction manuals, guarantee forms, or any other material relating to products offered for sale or sold by respondents to their distributors or franchisees unless respondents have on hand, or in stock, all such literature, manuals, forms, or such other material in quantities sufficient to meet the reasonable requirements of the distributors or franchisees to whom such representations are made or misrepresenting, in any manner, the amount and type of additional materials respondents will provide their distributors or franchisees along with the products offered for sale or sold by respondents to their distributors or franchisees.

5. Representing that respondents will provide national and local advertising of

the products offered for sale or sold by respondents to their distributors or franchisees or misrepresenting, in any manner, the extent, type and method of promotion and services provided by respondents in connection with the advertising of products offered for sale or sold by respondents to their distributors or franchisees or misrepresenting, in any manner, the media in which said advertising has appeared or will appear.

6. Failing to furnish any prospective distributor or franchisee, in a separate written statement in a clear and concise manner, prior to the consummation of any contract between respondents and any such prospective distributor or franchisee:

A. A detailed statement setting forth all the rights and obligations of the parties under the distributor or franchise agreement.

B. Complete financial details pertaining to the distributor or franchise agreement including the amount to be paid by the distributor or franchisee for the distributorship or franchise, the amount to be paid for any services to be rendered by respondents and the amount to be paid for any merchandise offered for sale or sold thereunder.

C. A list of the names and addresses of all persons who, in the 2 calendar years immediately preceding, purchased a distributorship or franchise, for products or product lines similar to, or the same as, those being offered by respondents to any prospective distributor or franchisee, and the gross dollar volume of purchases of such products from respondents, by each such distributor or franchisee, in each of said calendar years, exclusive of the dollar amount of merchandise purchased and paid for at the time of the purchase of the distributorship or franchise.

7. Failing to disclose, in each contract for the sale of a distributorship or franchise, to those prospective distributors or franchisees whose accounts will be obtained on a consignment basis, that said accounts will not be cash sale or open account sale customers or accounts, but will be consignment accounts and that merchandise so placed or delivered may be returned to the distributor or franchisee.

It is further ordered, That respondents:

1. Inform all prosective purchasers of distributorships, franchises, or merchandise, orally and provide in writing in all contracts that, (1) the contract may be cancelled for any reason by mailing a notice of cancellation to respondents' business address prior to midnight of the fifth day following the date upon which the purchaser signed the distributor or franchise agreement.

2. Promptly refund all moneys to distributors, franchisees, or customers who have requested contract cancellation in accordance with the provisions of paragraph 1 above.

It is further ordered, That respondents maintain files containing all inquiries or complaints from any source relating to acts or practices prohibited by this order, for a period of 2 years after their receipt, and that such files be made available for examination by a duly authorized agent of the Federal Trade Commission during the regular hours of the respondents' business for inspection and copying.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment, or sale resulting in the emergence of successor corporations, the creation or dissolution of subsidiaries or corporate affiliates or any other change in the corporation which may affect compliance obligations arising out of this order.

It is further ordered, That respondents deliver a copy of this order to cease and desist to all present and future employees, agents, and representatives engaged in the offering for sale or sale of respondents' distributorships, franchises, or products or in any aspect of preparation, creation or placing of advertising and that respondents secure a signed statement acknowledging receipt of said order from each such person.

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business address and a statement as to the nature of the business or employment in which he is engaged as well as a description of his duties and responsibilities.

It is further ordered, That the corporate respondent distribute a copy of this order to each of its operating divisions or departments.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Issued: September 19, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.72-17667 Filed 10-16-72;8:50 am]

[Docket No. C-2288]

PART 13—PROHIBITED TRADE PRACTICES

Virginia Crafts, Inc., and J. C. Riepe, Jr.

Subpart—Importing, manufacturing, selling, or transporting flammable wear: § 13.1060 *Importing, manufacturing, selling, or transporting flammable wear.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 67 Stat. 111, as amended; 15 U.S.C. 45, 1191) [Cease and desist order, Virginia Crafts, Inc., et al., Keysville, Va., Docket No. C-2288, Sept. 19, 1972]

In the Matter of Virginia Crafts, Inc., a Corporation, and J. C. Riepe, Jr., Individually and as an Officer of Said Corporation

Consent order requiring a Keysville, Va., manufacturer of carpets and rugs, among other things to cease manufacturing for sale, selling, importing, or distributing any product, fabric, or related material which fails to conform to an applicable standard of flammability or regulation issued under the provisions of the Flammable Fabrics Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondent Virginia Crafts, Inc., a corporation, its successors and assigns, and its officers, and respondent J. C. Riepe, Jr., individually and as an officer of said corporation and respondents' agents, representatives, and employees directly or through any corporation, subsidiary, division, or other device, do forthwith cease and desist from manufacturing for sale, selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, any product, fabric, or related material; or manufacturing for sale, selling, or offering for sale, any product made of fabric or related material which has been shipped or received in commerce, as "commerce," "product," "fabric," and "related material" are defined in the Flammable Fabrics Act, as amended, which product, fabric, or related material fails to conform to an applicable standard or regulation continued in effect, issued, or amended under the provisions of the aforesaid Act.

It is further ordered, That respondents notify all of their customers who have purchased or to whom have been delivered the products which gave rise to this complaint, of the flammable nature of said products and effect the recall of said products from such customers.

It is further ordered, That the respondents herein either process the products which gave rise to the complaint so as to bring them into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products.

It is further ordered, That respondents herein shall, within ten (10) days after service upon them of this order, file with the Commission a special report in writing setting forth the respondents' intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the products which gave rise to the complaint, (2) the identity of the purchasers of said products, (3) the amount of said products on hand and in the channels of commerce, (4) any action taken and any further actions proposed to be taken to notify customers of the flammability of said products and effect the recall of said products from customers, and of the results thereof, (5) any disposition of said

products since April 4, 1972, and (6) any action taken or proposed to be taken to bring said products into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or to destroy said products, and the results of such action. Respondents will submit with their report, a complete description of each style of carpet or rug currently in inventory or production. Upon request, respondents will forward to the Commission for testing a sample of any such carpet or rug.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business or employment in which he is engaged as well as a description of his duties and responsibilities.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: September 19, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.72-17671 Filed 10-16-72;8:50 am]

Title 24—HOUSING AND URBAN DEVELOPMENT

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

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 **Status of participating communities.**

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for are
* * *	* * *	* * *	* * *	* * *	* * *	* * *
California	Contra Costa	El Cerrito	I 06 013 1100 03 through I 06 013 1100 05	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.	City Hall, 10890 San Pablo Ave., El Cerrito, CA 94530.	Mar. 6, 1971. Emergency. Oct. 13, 1972. Regular.
Do	Los Angeles	Inglewood	I 06 037 1700 02 through I 06 037 1700 05	do	Public Works Department Office, City of Inglewood, Civic Center, 105 East Queen St., Inglewood, CA 90301.	Jan. 15, 1971. Emergency. Oct. 13, 1972. Regular.
Do	San Diego	Chula Vista	I 06 073 0710 06 through I 06 073 0710 12	do	Engineering Department, City of Chula Vista, Chula Vista, Calif. 92012.	Feb. 9, 1971. Emergency. Oct. 13, 1972. Regular.
Florida	Broward	Plantation				Oct. 13, 1972. Emergency.
Illinois	Cook and Lake	Deerfield				Do.
Do	Cook	Des Plaines				Do.
Do	do	Schaumburg				Do.
Do	Peoria	Peoria Heights				Do.
Maryland	Montgomery	Unincorporated areas.				Do.
New Jersey	Bergen	Mahwah Township.				Do.
Pennsylvania	Delaware	Collingdale Borough.				Do.
Do	Dauphin	Middletown Borough.				Do.
Do	Centre	Spring Township				Do.
Texas	Hidalgo	Edinburg				Do.
Virginia	Clarke	Unincorporated areas.				Do.
Washington	King	do				Do.
West Virginia	Mingo	Delbarton				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 10, 1972.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.72-17572 Filed 10-16-72;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	Contra Costa	El Cerrito	H 06 013 1100 03 through H 06 013 1100 05	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.	City Hall, 10890 San Pablo Ave., El Cerrito, CA 94530.	Mar. 6, 1971.
Do	Los Angeles	Inglewood	H 06 037 1700 02 through H 06 037 1700 05	do	Public Works Department Office, City of Inglewood, Civic Center, 105 East Queen St., Inglewood, CA 90301.	Jan. 15, 1971.
Do	San Diego	Chula Vista	H 06 073 0710 06 through H 06 073 0710 12	do	Engineering Department, City of Chula Vista, Chula Vista, Calif. 92012.	Feb. 9, 1971.
Florida	Broward	Plantation				Oct. 13, 1972.
Illinois	Cook and Lake	Deerfield				Do.
Do	Cook	Des Plaines				Do.
Do	do	Schaumburg				Do.
Do	Peoria	Peoria Heights				Do.
Maryland	Montgomery	Unincorporated areas.				Do.
New Jersey	Bergen	Mahwah Township.				Do.
Pennsylvania	Delaware	Collingdale Borough.				Do.
Do	Dauphin	Middletown Borough.				Do.
Do	Centre	Spring Township.				Do.
Texas	Hidalgo	Edinburg				Do.
Virginia	Clarke	Unincorporated areas.				Do.
Washington	King	do				Do.
West Virginia	Mingo	Delbarton				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 10, 1972.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.72–17573 Filed 10–16–72;8:45 am]

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Y]

PART 225—BANK HOLDING COMPANIES

Nonbanking Activities

Correction

In F.R. Doc. 72–16683 appearing on page 20329 of the issue of Friday, September 29, 1972, in § 225.126(h), the reference to "Fed. Res. Bulletin 177", should refer to "Fed. Res. Bulletin 717".

Title 25—INDIANS

Chapter III—Indian Claims Commission

PART 503—GENERAL RULES OF PROCEDURE

Miscellaneous Amendments

§ 503.1 [Amended]

1. Section 503.1, Chapter III of Title 25, the general rules of procedure of the Indian Claims Commission, is amended by deleting the word "petitioners" and substituting therefor "plaintiffs".

§§ 503.2–503.42 [Amended]

2. All subsequent references to "petitioners" in Part 503, Chapter III of Title 25, the general rules of procedure of the Indian Claims Commission, are amended to read "plaintiffs".

3. Section 503.5(a), Chapter III of Title 25, the general rules of procedure of the Indian Claims Commission, is hereby amended as follows:

§ 503.5 Time.

(a) *Computation.* (1) In computing any period of time prescribed or allowed by the rules in this part by order of the Commission, Commissioner or Examiner or by any applicable statute, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday, or legal holiday in the District of Columbia, in which event the period runs until the end of the next day upon which the Commission is open for business. As used in these rules, "legal holiday" includes New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor

Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day, and and other day appointed as a holiday by the President or the Congress of the United States. (As amended Public Law 90-363, sec. 1(a), June 28, 1968, 82 Stat. 250.)

(2) When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays, and holidays shall be excluded in the computation.

4. Section 503.9(a), Chapter III of Title 25, the General Rules of Procedure of the Indian Claims Commission, is hereby amended as follows:

§ 503.9 Form of pleadings.

(a) *Caption; identification of moving party.* Every pleading, motion in writing, and other paper filed with the Commission shall contain a caption setting forth the name of the Commission, the title of the action, the docket number, and a designation of what it is, e.g., "Answer", "Plaintiff's Motion to Strike Paragraph III of Answer", "Defendant's Motion for Extension of Time Within Which to File Requested Findings of Fact". The designation shall clearly show which party, whether plaintiff or defendant, is filing the paper. In pleadings, motions, and other papers filed subsequently to the petition the title of the case may be abbreviated. Where cases have been consolidated, the docket numbers of each case included in the consolidation shall be shown; and the designation shall show which particular party is filing the paper and which other party it is applicable to, e.g., "Plaintiff Doe Tribe's Response to Plaintiff Roe Tribe's Motion for Summary Judgment".

* * * * *

§ 503.12 [Amended]

5. Section 503.12(a), Chapter III of Title 25, the General Rules of Procedure of the Indian Claims Commission, is hereby amended by deleting the word "cross-claim".

6. Section 503.25, Chapter III of Title 25, the General Rules of Procedure of the Indian Claims Commission is hereby added as follows:

§ 503.25 Consolidation; separate trials.

(a) *Consolidation.* When actions involving a common question of law or fact are pending before the Commission, it may order a joint hearing or trial of any or all the matters in issue in the actions; it may order all the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay.

(b) *Separate trials.* The Commission in furtherance of convenience or to avoid prejudice may order a separate trial of any claim or of any separate issue or of any number of claims or issues.

7. Section 503.33(a), Chapter III of Title 25, the General Rules of Procedure of the Indian Claims Commission, is hereby amended as follows:

§ 503.33 Motions for rehearing and for amendment of findings.

(a) Whenever either party desires to question the correctness or the sufficiency of the Commission's conclusions on its findings of fact or to amend the same, the complaining party shall file a motion which shall be known as a motion for a rehearing. All grounds relied upon for any or all of said objections shall be included in one motion. After the Commission has announced its decision upon such motion no other motion for a rehearing shall be filed by the same party unless by leave of the Commission. Motions for a rehearing shall be filed within 30 days from the time the Commission's aforesaid conclusions on its findings of fact are filed with the Clerk.

* * * * *

§ 503.33 [Amended]

8. Section 503.33(b), Chapter III of Title 25, the General Rules of Procedure of the Indian Claims Commission, is hereby amended by deleting the word "hearing" and substituting therefor "rehearing".

Dated at Washington, D.C., this 4th day of October 1972.

JEROME Y. KUYKENDALL,
Chairman.

MARGARET H. PIERCE,
Commissioner.

BRANTLEY BLUE,
Commissioner.

JOHN T. VANCE,
Commissioner.

RICHARD W. YARBOROUGH,
Commissioner.

[FR Doc.72-17656 Filed 10-16-72;8:48 am]

Title 29—LABOR

Chapter I—National Labor Relations Board

PART 103—OTHER RULES

Offers of Reinstatement to Employees in Armed Forces

By virtue of the authority vested in it by the National Labor Relations Act, approved July 5, 1935,[1] the National Labor Relations Board hereby issues the following rule which it finds necessary to carry out the provisions of said Act.

This rule is issued following proceedings conforming to the requirements of 5 U.S.C. sec. 553 (see 37 F.R. 15710, August 4, 1972). As stated in the explanatory statement published as part of the notice of proposed rule making, the rule does not alter substantive requirements. The rule shall be effective upon publication in the FEDERAL REGISTER (10-17-72) and shall apply to all proceedings affected thereby which are pending at the time of such publication or which may arise thereafter.

Dated: Washington, D.C., October 12, 1972.

By direction of the Board.

JOHN C. TRUESDALE,
Executive Secretary.

[1] 49 Stat. 449; 29 U.S.C. 151-166, as amended by act of June 23, 1947 (61 Stat. 136; 29 U.S.C. Supp. 151-167), act of October 22, 1951 (65 Stat. 601; 29 U.S.C. 158, 159, 168), and act of September 14, 1959 (73 Stat. 519; 29 U.S.C. 141-168).

Subpart F—Remedial Orders

§ 103.100 Offers of reinstatement to employees in Armed Forces.

When an employer is required by a Board remedial order to offer an employee employment, reemployment, or reinstatement, or to notify an employee of his or her entitlement to reinstatement upon application, the employer shall, if the employee is serving in the Armed Forces of the United States at the time such offer or notification is made, also notify the employee of his or her right to reinstatement upon application in accordance with the Universal Military Training and Service Act, as amended, after discharge from the Armed Forces.

[FR Doc.72-17685 Filed 10-16-72;8:51 am]

Title 42—PUBLIC HEALTH

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

PART 57—GRANTS FOR CONSTRUCTION OF HEALTH RESEARCH FACILITIES (INCLUDING MENTAL RETARDATION RESEARCH FACILITIES), TEACHING, STUDENT LOANS, EDUCATIONAL IMPROVEMENT, AND SCHOLARSHIPS

Grants To Improve the Quality of Training Centers for Allied Health Professions

On May 2, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 8885-8888) proposing to amend Part 57 by repealing Subpart H of Part 57 and substituting in lieu thereof a new Subpart H to conform the regulations to the amendments to this program made by title II of the Health Training Improvement Act of 1970.

Interested persons were afforded the opportunity to participate in the rule making through submission of comments within 30 days after publication of the notice in the FEDERAL REGISTER, and a number of such comments were received. Due consideration having been given to all material presented, it has been decided that none of the comments received warranted any changes in the proposed regulations.

In addition to several technical changes in these regulations, however, § 57.703(d)(3) has been revised to delete

the reference to March 1, 1973, and thus require that, effective 30 days after the date of publication of this regulation, the affiliation agreements required of applicants which do not have hospitals as institutional components must be reduced to writing. The decision to change this requirement was made in light of the fact that institutions were informed in the fall of 1971 that the Department intended to require written affiliation requirements for 1973 fiscal year grants, and therefore there was no need to postpone further the effective date of this requirement.

The following regulations shall become effective 30 days after publication in the FEDERAL REGISTER.

Dated: September 21, 1972.

ROBERT Q. MARSTON,
Director,
National Institutes of Health.

Approved: October 11, 1972.

ELLIOTT L. RICHARDSON,
Secretary.

1. Subpart H of the table of contents of Part 57 is hereby amended as follows:

Subpart H—Grants To Improve the Quality of Training Centers for Allied Health Professions

2. Subpart H is revised to read as follows:

Subpart H—Grants To Improve the Quality of Training Centers for Allied Health Professions

AUTHORITY: The provisions of this Subpart H issued under sec. 215, 58 Stat. 690, as amended; 42 U.S.C. 216. Sec. 792(b), 84 Stat. 1344; 42 U.S.C. 295h–1(b).

§ 57.701 Applicability.

The regulations in this subpart are applicable to the award of special improvement grants under section 792(b) of the Public Health Service Act (42 U.S.C. 295h–1(b)) to assist training centers for the allied health professions in projects for the provision, maintenance, or improvement of the specialized function which the center serves.

§ 57.702 Definitions.

As used in this subpart:

(a) "Act" means the Public Health Service Act, as amended.

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

(c) "Training Center for the Allied Health Professions" or "center" means a junior college, college, or university which meets the requirements specified in section 795(1) of the Act and which provides training in one or more of the specified allied health professional or technical curriculums listed in § 57.704: *Provided,* That a total of not less than 20 persons received training in curriculums listed in § 57.704. In calculating the number of students required by this subsection, only those students in curriculums for which the applicant provides assurance satisfactory to the Secretary that a minimum of six full-time students received training on October 15 of the fiscal year in which the application is made, shall be counted.

(d) "Curriculum" means that portion of a program of study, leading to an associate or baccalaureate degree or to the equivalent of either or to a higher degree, which the center demonstrates to be the professional or technical portion of the program of study.

(e) "Full-time student" means a student who (1) in the case of a curriculum (as defined in paragraph (d) of this section) specified in § 57.704(a) is enrolled in either of the last 2 academic years or a period of affiliated clinical experience not longer than 24 months required for professional certification, registration or licensure, or (2) in the case of a curriculum specified in § 57.704(b) is enrolled in the last academic year, and (3) is carrying a full-time academic workload as determined by the center.

(f) "Budget period" means the period specified in the grant award document during which the grantee may expend the funds granted.

(g) "Fiscal year" means the Federal fiscal year beginning on July 1 and ending on the following June 30.

§ 57.703 Eligibility.

To be eligible for a special improvement grant under section 792(b) of the Act, the applicant shall:

(a) Meet the applicable requirements of sections 792 and 795 of the Act and of these regulations;

(b) File an application as required in § 57.707;

(c) Be located in a State, the District of Columbia, Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, or the Trust Territory of the Pacific Islands.

(d) Either (1) have as one of its institutional components a teaching hospital which provides the hospital component of the clinical training required for completion of those curriculums listed in § 57.704 which are used to meet the requirements of a training center (see § 57.702(c)); or (2) be affiliated with one or more such hospitals by means of a written agreement executed by individuals authorized to act for their respective institutions and to assume on behalf of the institution the obligations imposed by such agreement. The agreement shall provide:

(i) A description of the responsibilities of the center, the responsibilities of the hospital, and their joint responsibilities with respect to the clinical components of such curriculums;

(ii) A description of the procedure by which the center and the hospital will coordinate the academic and clinical training of students in such curriculums; and

(iii) That, with respect to the clinical component of each such curriculum, the teaching plan and resources have been jointly examined and approved by the appropriate faculty of the center and staff of the hospital:

(e) Demonstrate in its application that the special improvement grant funds will be utilized to contribute toward provision, maintenance, or improvement of the specialized functions which the center serves.

§ 57.704 Specified curriculums.

(a) For the purposes of section 795(1)(A) of the Act, specified curriculums means those curriculums which qualify students for the baccalaureate degree or its equivalent or masters degree to the extent required to meet the basic professional requirements for employment as one of the following:

(1) Medical technologist.
(2) Optometric technologist.
(3) Dental hygienist.
(4) Radiologic technologist.
(5) Medical record librarian.
(6) Dietitian.
(7) Occupational therapist.
(8) Physical therapist.
(9) Sanitarian.

(b) For the purposes of section 795(1)(A) of the Act, specified curriculums also means those curriculums which qualify students for the associate degree or its equivalent and for employment as one of the following:

(1) X-ray technician.
(2) Medical record technician.
(3) Inhalation therapy technician.
(4) Dental laboratory technician.
(5) Dental hygienist.
(6) Dental assistant.
(7) Ophthalmic assistant.
(8) Occupational therapy assistant.
(9) Dietary technician.
(10) Medical laboratory technician.
(11) Optometric technician.
(12) Sanitarian technician.

§ 57.705 Equivalents of degrees.

(a) A certificate, diploma, or other document awarded by the center which signifies satisfactory completion of a program of study of not less than 2 academic years shall be considered to be the equivalent of an associate degree.

(b) In the curriculums which include a clinical component that is undertaken in whole or in part, after the awarding of the baccalaureate degree, but not

creditable to a higher degree, the certificate or document which signifies satisfactory completion of the clinical experience, shall be considered to be the equivalent of a baccalaureate degree.

§ 57.706 Accreditation.

Applicant colleges and universities must be accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education. Junior colleges must be accredited by the regional accrediting agency for the region in which they are located or provide satisfactory assurance afforded by such accrediting agency to the Secretary that reasonable progress is being made toward accreditation.

§ 57.707 Application.

(a) Each center desiring a special improvement grant under the Act shall submit an application in such form and at such time as the Secretary may require.[1] Such application shall be executed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the terms and conditions of any award, including the regulation of this subpart.

(b) An application for a special improvement grant shall include a plan setting forth specifically the manner and methods by which grant funds will be used to contribute toward provision, maintenance or improvement of the specialized function which the training center serves.

§ 57.708 Assurance required.

With respect to the assurance required by section 792(d)(2) of the Act, relating to the continued expenditure of non-Federal funds, the amounts of non-Federal funds to be expended during the fiscal years immediately preceding the fiscal year for which the grant is sought shall be determined on the basis of the non-Federal funds expended in support of those specified curriculums which qualify the applicant as a training center (as defined in § 57.702(c)), excluding the cost of construction.

§ 57.709 Grant awards.

(a) The Secretary may award a special improvement grant to any applicant after determining that such grant will be utilized by the applicant in accordance with the purposes specified in section 792(b) of the Act. In determining priority for awarding special improvement grants, the Secretary will give consideration to the following factors:

(1) The relative financial need of the applicant for such grant.

(2) The relative effectiveness of the applicant's proposal in contributing toward provision, maintenance, or improvement of the specialized functions which the center serves.

(3) The extent to which the applicant's proposal contributes to an equitable geographical distribution of training centers offering high quality training in the curriculums specified in § 57.704.

(b) The amount of any award shall be determined by the Secretary on the basis of his estimate of the sum necessary for the direct costs of the project plus an additional amount for indirect costs, if any, which will be calculated by the Secretary on the basis of a percentage of all, or a portion of, the estimated direct costs of the project when there are reasonable assurances that the use of such percentage will not exceed the approximate actual indirect costs. Such award may include an estimated provisional amount for indirect costs or for designated direct costs (such as fringe benefit rates) subject to upward (within the limits of available funds) as well as downward adjustments to actual costs when the amount properly expended by the grantee for provisional items has been determined by the Secretary.

(c) Except as may otherwise be provided by the regulations of this subpart, the identification of direct and indirect costs will be consistent with the generally accepted and established accounting practices that the grantee applies to its own activities and in conformance with the applicable principles set forth in chapters 3–60 and 3–80 of the Department of Health, Education, and Welfare Grants Administration Manual.[2]

(d) All grant awards shall be in writing, shall set forth the amount of funds granted and the period for which such funds will be available for obligation by the grantee.

(e) Neither the approval of any project nor any grant award shall commit or obligate the United States in any way to make any additional, supplemental, continuation, or other award with respect to any approved project or portion thereof. For continuation support, grantees must make separate application annually and at such times and in such forms as the Secretary may dictate.

§ 57.710 Payments.

The Secretary shall from time to time make payments to a grantee of all or a portion of any grant award, either in advance or by way of reimbursement.

§ 57.711 Expenditure of grant funds.

Any funds granted pursuant to this subpart shall be expended solely for carrying out the approved project in accordance with the statute, the regulations of this subpart, the terms and conditions of the award and cost principles set forth in chapters 3–60 and 3–80 of the Department of Health, Education, and Welfare Grants Administration Manual and applicable policy issuances of the National Institutes of Health, available from the Division of Allied Health Manpower, Bureau of Health Manpower Education, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20014.

§ 57.712 Nondiscrimination.

(a) Attention is called to the requirements of title VI of the Civil Rights Act of 1964 (78 Stat. 251; 42 U.S.C. 2000(d) et seq.) which provides that no person in the United States shall, on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal Financial Assistance. A regulation implementing such title VI, which is applicable to grants made under this part, has been issued by the Secretary with the approval of the President (45 CFR Part 80).

(b) Each grant for expansion, remodeling, alteration, or repairs shall be subject to the condition that the grantee shall comply with the requirements of Executive Order 11246, 30 F.R. 12319 (September 24, 1965), as amended, and with the applicable rules, regulations and procedures prescribed pursuant thereto.

(c) Attention is called to the requirements of section 799A of the Act, and to 45 CFR Part 83 which together provide that the Secretary may not make a grant, loan guarantee, or interest subsidy payment under title VII of the Act to or for the benefit of any entity unless the application for the grant, loan guarantee, or interest subsidy payment contains assurances satisfactory to the Secretary that the entity will not discriminate on the basis of sex in the admission of individuals to its training programs.

§ 57.713 Accountability.

(a) *Accounting for grant award payments.* All payments made by the Secretary shall be recorded by the grantee in accounting records separate from the records of all other grant funds, including funds derived from other grant awards. With respect to each approved project the grantee shall account for the sum total of all amounts paid by presenting or otherwise making available evidence satisfactory to the Secretary of expenditures for direct and indirect costs meeting the requirements of this part: *Provided, however,* That when the amount awarded for indirect cost was based on a fixed-percentage of estimated direct costs, the amount allowed for indirect costs shall be computed on the basis of such fixed-percentage rates applied to the total, or a selected element thereof, of the reimbursable direct costs incurred.

(b) *Accounting for equipment.* As used in this section the term "equipment" means an article of property procured or fabricated which is complete in itself, is of a durable nature, and has an expected service life of more than 1 year. Equipment on hand on the date of termination for which accounting is required in accordance with the procedures set forth in Chapter 1–410–50 of the Department of Health, Education, and Welfare Grants Administration Manual

[1] Applications and instructions may be obtained from the Director, Division of Allied Health Manpower, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20014.

[2] The Department of Health, Education, and Welfare Grants Administration Manual is available for public inspection and copying at the Department's and Regional Offices' information centers listed in 45 CFR 5.31 and may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

shall be identified and reported by the grantee in accordance with such procedures, and, accounted for by one or a combination of the following methods, as determined by the Secretary:

(1) *Retention of equipment for other health projects.* Equipment may be used, without adjustment of accounts, on other grant supported projects (whether or not federally supported) within the scope of section 792(b) of the Act, and no other accounting for such equipment shall be required: *Provided, however,* (i) That during such period of use no charge for depreciation, amortization or for other use of the equipment shall be made against any existing or future Federal grant or contract, and (ii) if, within the period of its useful life, the equipment is transferred by sale or otherwise for use outside the scope of section 792(b) of the Act, the Federal portion of the fair market value at the time of transfer shall be refunded to the Federal Government.

(2) *Sale or other disposition of equipment, crediting of proceeds or value.* The equipment may be sold by the grantee and the net proceeds of sale credited to the grant account for project use, or it may be used or disposed of in any manner by the grantee by crediting to the grant account the Federal share of the fair market value on the termination date. To the extent equipment purchased from grant funds is used for credit or trade-in on the purchase of new equipment, the accounting obligation shall apply to the same extent to such new equipment.

(3) *Return or transfer of equipment.* The equipment may be returned to the Federal Government by the grantee or, in accordance with the provisions of chapter 1–410–50B of the Department of Health, Education, and Welfare Grants Administration Manual may be transferred to another grantee for the purpose of continuing the project for which the equipment was purchased.

(c) *Accounting for grant related income* (1) *Interest.* Pursuant to section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213), a State will not be held accountable for interest earned on grant funds, pending their disbursement for grant purposes. A State, as defined in § 102 of the Intergovernmental Cooperation Act, means any territory or possession of the United States, or any agency or instrumentality of a State, but does not include the governments of the political subdivisions of the State. All grantees other than a State, as defined in this subsection, must return all interest earned on grant funds to the Federal Government.

(2) *Royalties.* Royalties earned from publications or similar material produced from a grant must first be used to reduce the Federal share of the grant to cover the costs of publishing or producing the materials. Royalties in excess of the costs of publishing or producing the materials shall be distributed as in subparagraph (3) of this paragraph.

(3) *Other income.* Other income earned by the grantee shall be disposed of in accordance with one of the alternatives specified in chapter 1–420 of the Grants Administration Manual as determined by the Secretary in the grant award.

(d) *Grant closeout*—(1) *Date of final accounting.* A grantee shall render, with respect to each approved project, a full account, as provided herein, as of date of the termination of grant support. The Secretary may require other special and periodic accounting.

(2) *Final settlement.* There shall be payable to the Federal Government as final settlement with respect to each approved project the total sum of

(i) Any amount not accounted for pursuant to paragraph (a) of this section;

(ii) Any credits for material on hand as provided in paragraph (b) of this section;

(iii) Any credits for earned interest;

(iv) Any other settlements required pursuant to paragraph (c) (2) and (3) of this section.

Such total sum shall constitute a debt owed by the grantee to the Federal Government and shall be recovered from the grantee or its successors or assigns by set off or other action as provided by law.

§ 57.714 Publications and copyright.

Except as may otherwise be provided under the terms and conditions of the award, the grantee may copyright without prior approval any publications, films or similar materials developed or resulting from a project supported by a grant under this subpart, subject, however, to a royalty free, nonexclusive, and irrevocable license or right in the Government to reproduce, translate, publish, use, disseminate, and dispose of such materials and to authorize others to do so.

§ 57.715 Inventions or discoveries.

Any grant award pursuant to § 57.709 is subject to the regulations of the Department of Health, Education, and Welfare as set forth in 45 CFR Parts 6 and 8, as amended. Such regulations shall apply to any activity for which grant funds are in fact used whether within the scope of the project as approved or otherwise. Appropriate measures shall be taken by the grantee and by the Secretary to assure that no contracts, assignments, or other arrangements inconsistent with the grant obligation are continued or entered into and that all personnel involved in the supported activity are aware of and comply with such obligations. Laboratory notes, related technical data, and information pertaining to inventions and discoveries shall be maintained for such periods, and filed with or otherwise made available to the Secretary, or those he may designate at such times and in such manner, as he may determine necessary to carry out such Department regulations.

§ 57.716 Records, reports, inspection and audit.

(a) *Records and reports.* Each grant awarded pursuant to this subpart shall be subject to the condition that the grantee shall maintain such operational and accounting records, identifiable by grant number, and file with the Secretary such operational and fiscal reports relating to the use of grant funds, as the Secretary may find necessary to carry out the purposes of the applicable provisions of the Act and the regulations. All records shall be retained for 3 years after the close of the budget period. Such records may be destroyed at the end of such 3-year period if the applicant has been notified of the completion of the Federal audit by such time. If the applicant has not been so notified, such records shall be retained (1) for 5 years after the close of the budget period, or (2) until the grantee is notified of the completion of the Federal audit, whichever comes first. In all cases where audit questions have arisen before the expiration of such 5-year period, records shall be retained until resolution of all such questions.

(b) *Inspection and audit.* Any application for a grant award under this subpart shall constitute the consent of the applicant to inspections of the facilities, equipment, and other resources of the applicant at reasonable times by persons designated by the Secretary, and to interviews with the principal staff members and students to the extent that such resources, personnel, and students are, or will be involved in the project. In addition, the acceptance of any grant award under this subpart shall constitute the consent of the grantee to inspections and fiscal audits by such persons of the supported activity and of progress and fiscal records relating to the use of grant funds.

§ 57.717 Additional conditions.

The Secretary may with respect to any grant award impose additional conditions prior to or at the time of any award when in his judgment such conditions are necessary to assure or protect advancement of the approved project, the interests of the public health or the conservation of grant funds.

§ 57.718 Early termination and withholding of payments.

Whenever the Secretary finds that a grantee has failed in a material respect to comply with the applicable provisions of the Act, the regulations of this subpart, or the terms of the grant, he may, on reasonable notice to the grantee, withhold further payments, and take such other action, including the termination of the grant, as he finds appropriate to carry out the purposes of the applicable provisions of the Act and regulations. Noncancellable obligations of the grantee properly incurred prior to the receipt of the notice of termination will be honored. The grantee shall be promptly notified of such termination in writing and given the reasons therefor.

[FR Doc.72–17674 Filed 10–16–72;8:50 am]

Title 49—TRANSPORTATION

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION

[OST Docket No. 1, Amdt. 1–61]

PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

Delegation of Authority With Respect to Ports and Waterways Safety

The purpose of this amendment is to delegate to the Commandant of the Coast Guard authority vested in the Secretary by Public Law 92–340, the Ports and Waterways Safety Act of 1972. It also delegates to the Administrator of the St. Lawrence Seaway Development Corporation certain authority vested in the Secretary by the Ports and Waterways Safety Act with respect to the operation of the St. Lawrence Seaway.

Since this amendment relates to departmental management, procedures, and practices, notice and public procedure thereon is unnecessary and it may be made effective in less than 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing, Part 1 of Title 49, Code of Federal Regulations, is amended effective October 5, 1972, as follows:

1. The table of contents is amended by adding the following new item immediately after the item "§ 1.50 Delegations to Urban Mass Transportation Administrator":

Sec.
1.50a Delegations to Administrator of the St. Lawrence Seaway Corporation.

2. Section 1.46(o) is amended by adding a new subparagraph (4) at the end thereof to read as follows:

§ 1.46 Delegations to Commandant of the Coast Guard.

* * * * *

(o) Carry out the responsibilities and exercise the authority vested in the Secretary by the following statutes:

* * * * *

(4) Ports and Waterways Safety Act of 1972 (86 Stat. 424), except sections 101, 102, 104, 106, and 107 to the extent that those sections pertain to the operation of the St. Lawrence Seaway.

3. The following new section is added immediately after § 1.50:

§ 1.50a Delegations to Administrator of the St. Lawrence Seaway Corporation.

The Administrator of the St. Lawrence Seaway Development Corporation is delegated authority to carry out the functions vested in the Secretary by sections 101, 102, 104, 106, and 107 of the Ports and Waterways Safety Act of 1972 (86 Stat. 424), to the extent that they pertain to the operation of the St. Lawrence Seaway.

(Secs. 3(e), 9(e), Department of Transportation Act, 49 U.S.C. 1652(e), 1657(e))

Issued in Washington, D.C., on October 5, 1972.

JAMES M. BEGGS,
Under Secretary of Transportation.

[FR Doc.72–17662 Filed 10–16–72;8:49 am]

Title 6—ECONOMIC STABLIZATION

Chapter III—Price Commission

PART 300—PRICE STABILIZATION

Miscellaneous Amendments

The purpose of these amendments to the price stabilization regulations of the Price Commission is to make certain corrections and revisions to Special Regulation No. 1, and §§ 300.11, 300.51(a), 300.51(d), 300.53(a)(2), 300.373, and 300.402.

The purpose of the amendments to Special Regulation No. 1, relating to the effect of certain price reductions and refunds on the profit margin limitation, is to provide that institutional and noninstitutional providers of health services, governed by §§ 300.18 and 300.19, respectively, may qualify under that special regulation. Special Regulation No. 1 currently applies to manufacturers, retailers, wholesalers, and certain service organizations; the Commission has determined that it should also apply to nonprofit and for-profit providers of health services governed by the limitations of §§ 300.18(b) (1) and (2), and 300.19(b) (1) and (2). Paragraph 2 of Special Regulation No. 1 is also amended to clarify the number of days within which the Commission may consider a letter of intent to remit revenues and to correct the citation to Part 101 in Paragraph 3 to reference § 101.15 instead of § 101.11.

A new paragraph (c) is added to § 300.11 to provide that any retaliatory action, taken by a vendor or lessor, against a vendee or lessee who exercises any of his rights under the Economic Stabilization Act of 1970, as amended, or the price stabilization regulations promulgated thereunder, is a violation. A similar provision presently exists in § 301.303 of the rent regulations with respect to real property rentals. Prior to this amendment to § 300.11, no administrative relief or protection was afforded any vendee or lessee who filed or threatened to file a complaint against a vendor or lessor. The complaining party was subject to a possible loss of supply sources, unfavorable terms of payment or credit and other such abuses. The Commission has determined that the threat of such retaliatory actions is counter productive to the goals of the Economic Stabilization Program and severely restricts necessary enforcement activities. In addition, such a provision is necessary to deter violations of the regulations.

Section 300.51(a) is amended to delete the requirement that a prenotification firm must request approval by the Commission before charging an increased price as a result of the calculation of a base price under Subpart F. Until June 8, 1972, § 300.402 provided that the base price was either the highest price permitted for the period August 16–November 13, 1971, or the price as computed under § 300.405. The pertinent language of § 300.51(a) was intended to require prenotification of any such computation under § 300.405 in cases where the base price so determined exceeded the highest price permitted during the August 16–November 13, 1971, period. In view of the amendment to § 300.402 on June 8, 1972 (37 F.R. 11472), deleting reference to the August 16–November 13, 1971, period, the amendments to § 300.403 in Subpart F on September 20, 1972 (37 F.R. 19377), and the amendment to § 300.402 in this document, the Commission has determined that the requirement in § 300.51(a) for prenotification of the recalculation of a base price under Subpart F is obsolete and should be deleted to prevent misinterpretation and confusion on the part of prenotification firms. Section 300.51 is further amended to delete the obsolete reference in paragraph (d) to "the 72-hour period provided in paragraph (c) of this section." Provision for a 72-hour review of certain requests for price increases was deleted from paragraph (c) on January 8, 1972 (37 F.R. 284).

Section 300.53(a)(2) is amended to provide that the Commission may in any case, based upon a written request of the person concerned citing hardship or inequity, authorize continued consideration of pending requests for price increases or exceptions by a person who failed to file a report or other document required by a provision of Part 300. Currently, suspension of consideration on pending cases is automatic with respect to such persons, and does not provide for the exercise of discretion by the Commission. The amendment provides added authority to the Commission to waive the suspension when warranted by the circumstances of a particular case.

The last paragraph of § 300.373, relating to the requirements for an exception under § 300.371, is redesignated as paragraph (c) to correct its present incorrect designation as paragraph (b).

The purpose of the revision of § 300.402 is to eliminate any possible conflict with § 300.403, revised on September 20, 1972 (37 F.R. 19377), which governs the determination of base prices, and to provide that a base price for a product or service which cannot be determined under any other section of Subpart F (§§ 300.401–300.410) is the highest price permitted for the property or service during the period beginning on August 16, 1971, and ending on November 13, 1971. This latter provision was included in § 300.402 until June 8, 1972

(37 F.R. 11472), and is reinstated to insure that base prices can be calculated under all circumstances.

Since the purpose of these amendments is to make certain corrections to Part 300 of the regulations of the Price Commission and to provide immediate guidance as to the requirements of the Commission with respect to the stabilization of prices, it is hereby found that notice and public procedure thereon is impracticable and that good cause exists for making them effective less than 30 days after publication.

(Economic Stabilization Act of 1970, as amended, Public Law 91-379, 84 Stat. 799; Public Law 91-558, 84 Stat. 1486; Public Law 92-8, 85 Stat. 13; Public Law 92-15, 85 Stat. 38; Economic Stabilization Act Amendments of 1971, Public Law 92-210; Executive Order No. 11640, 37 F.R. 1213, Jan. 27, 1972; Cost of Living Council Order No. 4, 36 F.R. 20202, Oct. 16, 1971)

In consideration of the foregoing, Special Regulation No. 1 and Part 300 of the regulations of the Price Commission are amended as follows, effective October 17, 1972.

Issued in Washington, D.C., on October 16, 1972.

CARLETON S. JONES,
Deputy General Counsel,
Price Commission.

1. The second and fourth paragraphs of the language preceding paragraph 1 of Special Regulation No. 1 are amended to read as follows:

Under §§ 300.12, 300.13(a)(2), 300.14(a), 300.18(b)(2), and 300.19(b)(2) of the regulations of the Price Commission, manufacturers, retailers, wholesalers, certain service organizations and institutional and noninstitutional providers of health services may charge a price in excess of the base price, in accordance with applicable rules, only to the extent that such a price increase does not result in an increase in profit margain over the firm's base period profit margin. Sections 300.18(b)(1) and 300.19(b)(1) provide a similar limitation for nonprofit providers of health services. If a firm does not raise any price above the base price pursuant to these sections, there is no limitation on profit margin.

The Price Commission interprets §§ 300.12, 300.13(a)(2), 300.14(a), 300.18(b)(2), and 300.19(b)(2) of its regulations to mean that price increases will not "result in," have the "effect of," or otherwise contribute to a profit margin excess if, before the end of the fiscal year in which the price increases are charged, the firm completes the following two actions:

(1) Rescinds all price increases above base price levels; and

(2) Remits to customers the revenues derived in that fiscal year from charging prices in excess of base prices. The same interpretation applies to the limitations on nonprofit providers of health services under §§ 300.18(b)(1) and 300.19(b)(1).

2. Paragraph 1 of Special Regulation No. 1 is revised to read as follows:

1. *General rule.* Any firm subject to § 300.12, § 300.13(a)(2), § 300.14(a), § 300.18(b)(2), or § 300.19(b)(2) of Part 300 of the regulations of the Price Commission is not subject to the profit margin limitation contained therein, and any firm subject to § 300.18(b)(1) or § 300.19(b)(1) is not subject to the limitation contained therein, if, before the end of the fiscal year in which it raised a price above the base price or charged a price above the base price, the firm (a) rescinds all price increases above base price levels, and (b) in conformity with paragraphs 2, 3, and 4 hereof, remits to customers in the form of refunds, or future sales at below-base prices of the same goods and services previously sold at above-base price levels, or both, an amount equal to or greater than the revenues derived in that fiscal year from charging a price or prices in excess of base prices.

3. Paragraph 2(b) of Special Regulation No. 1 is revised to read as follows:

2. *Prenotification and reporting firms.*

* * * * *

(b) Before remitting revenues derived from above-base charges, each firm shall submit, for the approval of the Price Commission, a letter of intent to remit revenues under this regulation. If the firm receives no written response to its letter of intent within 20 days after the date it was received by the Price Commission, the firm may assume approval and proceed to remit revenues in accordance with paragraph 4 of this regulation.

4. The first sentence of paragraph 3 of Special Regulation No. 1 is revised to read as follows:

3. *Price Category III Firms.* A price category III firm (as defined in § 101.15 of Chapter I of this title) that intends to make price reductions and refunds under this regulation shall, before remitting revenues derived from above-base charges, record its intent in a notarized statement. * * *

5. Section 300.11 is amended by adding the following new paragraph (c) at the end thereof:

§ 300.11 General rule.

* * * * *

(c) No person may take retaliatory action against any other person who files or manifests an intent to file a complaint of alleged violation of, or who otherwise exercises any rights conferred by, the Economic Stabilization Act of 1970, as amended, any provision of this part, or any order issued under this part. For the purposes of this paragraph, "retaliatory action" includes any refusal to continue to sell or lease, any reduction in quality, any reduction in quantity of services or products customarily available for sale or lease, any violation of privacy, any form of harassment, or any inducement of others to retaliate.

6. The first two sentences of § 300.51(a) and the last sentence of paragraph (d) are amended to read as follows:

§ 300.51 Prenotification firms.

(a) *General—Manufacturers and service organizations.* A manufacturer or service organization which is a prenotification firm may not charge a price in excess of the base price or determine a base price with respect to a contract or group of related contracts involving an amount in excess of $1 million for custom products or services under § 300.410 until the Price Commission has approved that price in excess of the base price or determination of base price. If the Price Commission does not act upon a request under this paragraph within 30 days after receiving it, that price in excess of the base price, or determination of base price may go into effect without Commission action.

* * * * *

(d) *Manner of Notification.* * * * If the Commission finds that the information submitted is not sufficient to make such a determination it shall so notify the person and the 30-day period provided in paragraph (a) of this section does not begin to run until the time the additional information is received.

* * * * *

7. Section 300.53(a)(2) is amended to read as follows:

§ 300.53 Effect of failure to file reports or other documents required by or under certain sections of this part.

(a) * * *

(2) Except to the extent specifically authorized otherwise by the Commission in any case, based upon a written request of the person concerned citing hardship or inequity, action is suspended on all pending requests for price increases and exceptions by that person until he has complied with the reporting requirement; and

* * * * *

9. The last paragraph of § 300.373 is revised to read sa follows:

§ 300.373 Requirements for an exception under § 300.371.

* * * * *

(c) The financial data describing each acquisition must be restated on Price Commission forms and reconciled with previous financial statements of the person requesting the exception as if each acquisition were accounted for as a pooling of interests. The financial data describing each divestiture must be restated on Price Commission forms reconciled with previous financial statements as if each divestiture were accounted for on the same basis as a spin-off or a split-off.

10. Section 300.402 is revised to read as follows:

§ 300.402 Base price—general.

The base price of a property or service is the base price determined in accordance with the other provisions of this subpart. However, if a base price of a property or service cannot be determined in accordance with the other provisions of this subpart, the base price of that property or service is the highest price permitted to be charged by the person for the property or service during the period beginning on August 16, 1971, and ending on November 13, 1971.

[FR Doc.72-17772 Filed 10-16-72;10:31 am]

Title 45—PUBLIC WELFARE

Chapter I—Office of Education, Department of Health, Education, and Welfare

EDUCATIONAL BROADCASTING FACILITIES PROGRAM

Closing Date and Priorities for Fiscal Year 1973 Grants

On August 8, 1972, notice of proposed rule making regarding a closing date and priorities for fiscal year 1973 grants under the Educational Broadcasting Facilities program was published in the FEDERAL REGISTER (37 F.R. 15970–71). Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed rule.

Only one objection, regarding the closing date, has been received, and the proposed rule is hereby adopted, subject to the following changes:

1. In section 2, the closing date for receipt of new applications and documents to reactivate pending applications is changed from September 15, 1972, to 30 days from the date of publication of this notice in the FEDERAL REGISTER. A conforming change is also made in section 6.

2. Other, minor typographical changes has been made in the rule.

Effective date. This notice is effective on the date of publication (10–17–72).

Dated: October 2, 1972.

S. P. MARLAND, JR.,
Commissioner of Education.

Approved: October 12, 1972.

ELLIOT L. RICHARDSON,
Secretary.

Sec.
1. Scope.
2. Closing date.
3. Project summary.
4. Complete applications; operating budget
5. Limit on applications.
6. FCC and FAA filing.
7. Prior grantees.
8. Funding emphases.
9. Awards schedule.
10. Further information.

AUTHORITY: The provisions of this rule issued under Part IV of Title III of the Communications Act of 1934, as amended (47 U.S.C. 390–99); 45 CFR Part 60.

Section 1. Scope.

This temporary rule establishes a closing date for receipt of applications and priorities and procedures to govern educational broadcasting facilities grants for fiscal year 1973 awarded under Part IV of Title III of the Communications Act of 1934, as amended (47 U.S.C. 390–99) and 45 CFR Part 60 (47 U.S.C. 390, 392(d), 394; 45 CFR 60.1).

Sec. 2. Closing date.

(a) Both new applications and documents required to be filed under paragraph (b) of this section to reactivate pending applications must be received by the Commissioner of Education, Office of Education, 400 Maryland Avenue SW., Washington, DC 20202, postmarked not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER.

(b) To reactivate any pending application, an applicant must either: (1) Submit a statement that it wishes the application to be reviewed as it stands, together with any new exhibits not included in the original application and required by sections 3 and 4 and by application form OE–4152 revised as of October 1970 or (2) amend its application, including any new exhibits required by such sections and by such revised form. (47 U.S.C. 392(a); 45 CFR 60.5, 60.12(a)(3)).

Sec. 3. Project summary.

Applicants will be required to prepare a project summary of the application (OE Form 3167), summarizing essential data and the project justification. (47 U.S.C. 392(a), 45 CFR 60.5).

Sec. 4. Complete applications; operating budget.

Only complete or substantially complete applications filed on or before the closing date will be accepted for filing. It is emphasized that an application must contain information with respect to the proposed operating budget of the applicant, since particular stress in evaluation will be placed upon the adequacy of such budget to provide program services on a scale consistent with the purposes of the Act and regulations. (47 U.S.C. 392(a); 45 CFR 60.5, 60.8, 60.9(e)(3)).

Sec. 5. Limit on applications.

Only one application in radio and one in television by any single applicant in a single State (other than a State radio or television agency which may be permitted to file additional applications upon approval of the Commissioner) will be accepted for filing. Applicants may by the closing date withdraw a pending application and replace it with a new application. Applicants with more than one application on file must indicate by the closing date which application or applications are to be withdrawn. (47 U.S.C. 392(d); 45 CFR 60.12).

Sec. 6. FCC and FAA filing.

Applicants whose projects require filing for operational authority with the FCC (and the FAA) are urged to recognize and resolve problems related to such authorization as soon as possible. Applications with problems relating to FAA and/or FCC approval which cannot be resolved within a reasonable period of time following 30 days from the date of publication of this notice in the FEDERAL REGISTER will be subject to deferral until the following fiscal year. (45 CFR 60.6).

Sec. 7. Prior grantees.

Applicants who have received grant awards in a given fiscal year may file applications under the foregoing provisions in the next fiscal year. However, in determining grant awards among competitive applications having the same priority, the lapse of time between grant awards to an applicant may be taken into account. (47 U.S.C. 392(d), 394).

Sec. 8. Funding emphases.

In order to provide adequately for required expansion and improvement of individual stations within the national television system, it is anticipated that the largest portion of television funds will be used for expansion and improvement projects. In radio, the initial funding emphasis will be on the activation of new stations and the expansion of existing low powered stations where substantial audiences remain unserved. In the light of this program emphasis, priorities which are set forth in Appendix A will be assigned to applications, in accordance with the provisions of Appendix B. (47 U.S.C. 392(d), 394; 45 CFR 60.12(a)(2), 60.13).

Sec. 9. Awards schedule.

In order to allow for evaluation and priority interrelation of new applications with those which are pending, at least two-thirds (67 percent) of the appropriation will not be obligated until after the submission deadline. (45 CFR 60.12).

Sec. 10. Further information.

Further information with respect to the Educational Broadcasting Facilities Program including program bulletins and application forms and instructions (for pending as well as for new applications) may be obtained from the Director, Educational Broadcasting Facilities Program, U.S. Office of Education, 400 Maryland Avenue SW., Washington, DC 20202. (47 U.S.C. 390–99; 45 CFR 60.1–60.22).

APPENDIX A—PROJECT PRIORITIES

In evaluation of applications the Educational Broadcasting Facilities Program will consider the criteria in 45 CFR 60.13. Subject to these criteria, projects will be funded in the order of the priorities and sub-priorities listed below, except as provided in the limitations described in paragraphs 3, 4, and 5 of Appendix B.

PRIORITY I

A. Proposals to activate new stations in areas currently without a public broadcasting station with appropriate local or State license, to serve populations of 500,000 or more. Proposals to activate the first broadcasting station in a State.

B. Projects to acquire transmitter/antenna apparatus necessary to increase power or otherwise extend station coverage where the in-state population to be served increases substantially, or which are necessary to provide improved signal (including color, SCA, or stereo signals) for larger population groupings, and provide comparability with commercial station coverage.

C. Projects to provide stations with first state-of-the-art reproduction capability. This refers to color capability of a videotape recorder and film chain, stereo capability of an audio turntable and tape recorder and other associated radio or television apparatus.

D. Projects to acquire apparatus for the interconnection of stations in a State network (or a particular geographical region

across State lines) where applicant ownership of interconnection facilities can be fully justified as advantageous in comparison with leasing of interconnection services.

PRIORITY II

A. Proposals to activate new stations in areas currently without a public broadcasting station under appropriate local or State license, to serve populations between 250,000 and 500,000.

B. Projects to provide local stations with first state-of-the-art "live" production capability (i.e., first studio color cameras, stereo apparatus) where this need can be justified by proven production requirements to meet identified community needs.

C. Projects to provide production capability for stations providing program services beyond their local requirements for distribution over national, regional, and statewide interconnection. (To qualify in this category, a project justification must be verified by production commitment from recognized national, regional, or State network program clients supporting such production need, the applicant must demonstrate the inability of presently owned apparatus to meet production requirements, and the apparatus requested may not exceed the reasonable requirements of the verified production commitments.)

D. Projects to acquire transmitter/antenna apparatus necessary to increase power or otherwise extend or improve station coverage where the increase in population does not justify inclusion in Category IB.

PRIORITY III

A. Projects to activate new stations in areas currently without a public broadcasting station under appropriate local or State license where population to be served is less than 250,000.

B. Projects to augment production and reproduction capabilities of local stations beyond the basic or initial capability. Such proposals will require documentation of local live production requirements in excess of existing capability.

PRIORITY IV

A. Projects to activate second (or more) public broadcasting stations in areas already served by such a station under appropriate local or State license.

B. Projects to equip auxiliary studios at other than the main studio.

(47 U.S.C. 392(d), 394; 45 CFR 60.12)

APPENDIX B—ASSIGNMENT OF PRIORITIES TO APPLICATIONS

1. Upon receipt of application (or amendment to a pending application), it will be accorded the priority of the lowest component in the project.

For example, an application to relocate a new, more powerful transmitter which increases audience by 300,000 (Priority I–B); which includes the station's first color cameras (Priority II–B); and also requests matching funds for 3d and 4th color VTR's (Priority III–B) would be assigned a priority of III–B.

2. To avoid low priority rating, applicants should limit their requests to apparatus to meet their most immediate needs at the priority level which in their judgment will qualify within limitations of available funds in relation to the national backlog of needs for equipment.

If an applicant feels it is warranted by his evaluation of the national appropriation, the other demands to be made from within his State, the State maximum limitation, and his awareness of the national backlog of needs, he may file an application with components of lower priorities, provided he indicates clearly the financial parameters of each component and states clearly a willingness to "phase" out the project. In that event, the applicant must be prepared to accept a grant award for whatever portion, if any, of the project which the Commissioner determines can be accommodated within funding limitations for the current fiscal year. (In such an application, using the above example, EBFP would rank the appplication at Priority IB, for the transmitter component, and would fund components of lower priority only if relative priority among applications competing in such lower category would make such a step possible.)

3. To the extent permitted by categorical allowances, projects will be funded in the order of listed priorities.

Proportions of total available funds to be awarded in the various priority categories will be determined, with the counsel of national advisors, after the total requests are known following the cut-off date for submission of applications. It will be an administrative objective to achieve a fair distribution of funds over the major priority categories consistent with the pattern of needs reflected in the FY 1973 applications.

4. Where projects have identical priorities, preference will be given to those having the earlier date of filing, with reasonable allowance for the relative population groupings being served.

5. The order of funding according to the priority structure may be affected by consideration of geographical equity or the State maximum limitation (47 U.S.C. 392 (b) and (d), 394).

[FR Doc. 72–17755 Filed 10–16–72;8:52]

Proposed Rule Making

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 161]

RIGHTS-OF-WAY OVER INDIAN LANDS

Power Projects

OCTOBER 6, 1972.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2 (32 F.R. 13938).

Notice is hereby given that it is proposed to revise § 161.27 of Part 161, Subchapter 0, Chapter I, of Title 25 of the Code of Federal Regulations. This revision is proposed pursuant to the authority contained in 5 U.S.C. 301; in the Act of February 5, 1948 (62 Stat. 17; 25 U.S.C. 323–328); and in the Act of March 4, 1911 (36 Stat. 1253), as amended by the Act of May 27, 1952 (66 Stat. 95; 43 U.S.C. 961).

The purpose of the amendment is to revise 25 CFR 161.27 by deleting the word "lands" from line 8 of paragraph (b); deleting lines 9 and 10 from paragraph (b); and inserting the words "government owned lands shall" after the word "involving" on line 8 of paragraph (b); inserting the words "across government owned land" after the word "line" on line 2 of paragraph (f). This revision will remove applicable requirements of paragraphs (b) and (f), including subparagraphs and subdivisions thereof as they relate to rights-of-way for power projects over trust or restricted Indian-owned lands. They will be required, however, where public lands are concerned. In view of the Secretary of the Interior's trust responsibilities of protecting Indian property rights, it is felt that the requirements of paragraphs (b) and (f) which are applicable to public land and public land reserves should not apply to trust or restricted Indian-owned lands, which for these purposes should be considered the same as privately owned lands.

It is the policy of the Department of the Interior to afford the public an opportunity to participate in the rule making process. Accordingly, interested persons may submit written comments, suggestions, or objections with respect to the proposed amendment to the Director, Economic Development, Bureau of Indian Affairs, 1951 Constitution Avenue NW., Washington, DC 20242, within 30 days of the date of publication of this notice in the FEDERAL REGISTER.

Section 161.27(b)(f) of Chapter I, Title 25 of the Code of Federal Regulations is revised to read as follows:

§ 161.27 Power projects.

* * * * *

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

* * * * *

(f) An applicant for a right-of-way for a transmission line across Government-owned lands having a voltage of 66 kv. or more must, in addition to the stipulation required by § 161.5, execute and file with its application a stipulation agreeing to accpt the right-of-way grant subject to the following conditions:

* * * * *

LOUIS R. BRUCE,
Commissioner.

[FR Doc.72–17635 Filed 10–16–72;8:49 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 906]

ORANGES AND GRAPEFRUIT GROWN IN LOWER RIO GRANDE VALLEY IN TEXAS

Proposed Expenses and Rate of Assessment for Fiscal 1972–73

Consideration is being given to the following proposals submitted by the Texas Valley Citrus Committee, established pursuant to the marketing agreement, as amended, and Order No. 906, as amended (7 CFR Part 906), regulating the handling of oranges and grapefruit grown in Lower Rio Grande Valley in Texas, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the terms and provisions thereof:

(1) That expenses that are reasonable and likely to be incurred by the Texas Valley Citrus Committee, during the period August 1, 1972, through July 31, 1973, will amount to $825,000.

(2) That there be fixed at $0.045 per seven-tenths bushel carton or equivalent quantity of oranges and grapefruit, the rate of assessment payable by each handler in accordance with § 906.34 of the aforesaid marketing agreement and order.

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

Dated: October 12, 1972.

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

[FR Doc.72–17687 Filed 10–16–72;8:51 am]

[7 CFR Part 1106]

[Docket No. AO 210–A34]

MILK IN OKLAHOMA METROPOLITAN MARKETING AREA

Decision on Proposed Amendments to Marketing Agreement and Order

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Oklahoma Metropolitan marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Tulsa, Okla., on June 27, 1972, pursuant to notice thereof issued on June 9, 1972 (37 F.R. 11780).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Regulatory Programs, on September 1, 1972 (37 F.R. 18216), filed with the Hearing Clerk, U.S. Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein.

The material issue on the record of the hearing relates to location adjustments.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

Location adjustments. The schedule of location adjustments (the amounts by which the Class I price and uniform price are reduced for location of plant where milk is received from producers) should be revised.

No location adjustments now apply under this order at (1) plants in the State of Texas, (2) plants in Oklahoma that are south of the northern boundaries of Beckham, Washita, Caddo, Canadian, Oklahoma, Pottawatomie, and Seminole Counties, and west of the eastern boundaries of Seminole, Pontotoc, Johnston, and Marshall Counties, and (3) plants, wherever located, that are within 50 miles of Oklahoma City. There were no proposals to provide location adjustments at plants at which no location adjustments now apply.

At plants 50 miles or more from Oklahoma City (except for the designated territory within which no location adjustments apply) the present location adjustment rate is 10 cents at plants 50–150 miles of Oklahoma City, plus 2 cents for each 15 miles or fraction thereof between 150 and 240 miles, and plus 1 cent for each 15 miles or fraction thereof beyond 240 miles.

A handler proposed that the area 50–150 miles from Oklahoma City in which the 10-cent location adjustment applies be changed to 50–110 miles. At plants between 110 and 200 miles from Oklahoma City, he proposed that the location adjustment be an additional 2 cents for each 10 miles. Beyond 200 miles, the additional proposed location adjustment would be 1.5 cents for each 10 miles or fraction thereof.

The proponent of the above revised location adjustments operates a pool plant in Tulsa under the Oklahoma Metropolitan order and a Neosho Valley order pool plant in Coffeyville, Kans., which is 77 miles from Tulsa and 183 miles from Oklahoma City.

Substantial quantities of fluid milk products from the Tulsa and Coffeyville plants are distributed in the Oklahoma Metropolitan marketing area and at other locations in competition with handlers regulated by the Oklahoma Metropolitan order. Also, there are substantial interplant movements of packaged fluid milk products between the handler's Coffeyville and Tulsa plants.

Of the total Class I distribution from the Coffeyville plant, about 40 percent is in the Neosho Valley marketing area and 35 percent in the Oklahoma Metropolitan marketing area. The handler claims that in order to keep the Coffeyville plant regulated under the Neosho Valley order (instead of under the Oklahoma Metropolitan order) it has been necessary to make uneconomic movements of milk between the Tulsa and Coffeyville plants. If the Coffeyville plant's Class I distribution in the Oklahoma Metropolitan marketing area were to exceed such distribution in the Neosho Valley marketing area during the same month (and it otherwise qualified as a pool plant under both orders, as it now does) the Coffeyville plant would become an Oklahoma Metropolitan pool plant for the month.

The Oklahoma Metropolitan order Class I price is determined by adding $1.98 to the basic formula price for the second preceding month. The Class I price under the Neosho Valley order is 33 cents less than the Oklahoma Metropolitan order Class I price.

No location adjustment is applicable at Coffeyville under the Neosho Valley order. However, if the Coffeyville plant became a pool plant under the Oklahoma Metropolitan order, the Class I and uniform prices at that location would be subject to a location adjustment of 16 cents, based on the 183-mile distance from Oklahoma City to Coffeyville. The effect of such change in order of regulation would be to increase the applicable Class I price at the Coffeyville plant by 17 cents.

Proponent held that a 17-cent change in his applicable Class I price solely on the basis of a shift in order of regulation is unwarranted. While he suggested that complete interorder price alignment at his plant location might be unattainable under existing circumstances, he stated that the location adjustment applicable at Coffeyville under the Oklahoma Metropolitan order should reflect the cost of transporting milk from Coffeyville to the Oklahoma Metropolitan order market. This, he contended, would result if his proposal, which would provide a 26-cent location differential (in lieu of the present 16 cents) at Coffeyville, were adopted and his Coffeyville plant became regulated under the Oklahoma Metropolitan order.

A handler who operates plants under the Red River Valley, Wichita, and Greater Kansas City orders opposed changing the location adjustments in the Oklahoma Metropolitan order without at the same time considering the Class I prices in nearby orders. He stated that changing the location adjustments as proposed would upset the historical relationship in Class I pricing among the various orders. Fluid milk products from his plants, which products are distributed over a wide area in Kansas, Missouri, Oklahoma, and Texas, compete for sales with those of handlers regulated by the Oklahoma Metropolitan order.

An Oklahoma City handler urged that no location adjustments apply at plants within the State of Oklahoma. At plants outside the State, he proposed location adjustments of 1.5 cents for each 10 miles or fraction thereof for the distance of a plant from the nearer of Oklahoma City or Tulsa. The handler claims that he is at a disadvantage in competing with handlers whose plants are located in Tulsa and at other places in Oklahoma where Class I milk costs are lower than his because of the 10-cent location adjustment.

The order's present location adjustment provisions are substantially the same as those adopted when the Oklahoma City and the Tulsa-Muskogee orders were combined in 1957. The 10-cent location adjustment applicable at Tulsa and Muskogee under the combined order retained the identical price relationship between the Oklahoma City and the Tulso and Muskogee locations that existed under separate regulation. Tulsa and Muskogee are 104 and 140 miles, respectively, from Oklahoma City.

The six regulated plants under the Oklahoma Metropolitan order at which location adjustments now apply are all in Oklahoma and within 50 to 150 miles of Oklahoma City. The 10-cent location adjustment now applicable at these plants reflects a pattern of location pricing within the State of Oklahoma that has prevailed for at least several years. It was not shown that conditions in the market warrant a different price relationship than now exists among the order's presently regulated Oklahoma-based plants. Similarly, there was no showing that location adjustments should apply at locations within 50 miles of Oklahoma City or at Texas locations.

For locations outside the State, basing points should be adopted so as to result in location adjustments that approximate the cost of moving milk to the market.

Under present circumstances, Tulsa and Ponca City are locations in the marketing area most suitable as basing points for determining the mileage for applying location adjustments at plants outside the State of Oklahoma. Tulsa, the second largest city in the State, is 104 miles northeast of Oklahoma City; Ponca City, the northernmost sizable city in the marketing area is 103 miles directly north of Oklahoma City.

The location adjustment under the Oklahoma Metropolitan order applicable at plants in Tulsa, Ponca City, and other specified locations in Oklahoma gives recognition to the fact that such locations are closer than Oklahoma City to main alternative sources of supply. With the adoption of these two cities as basing points for measuring distances to plants outside Oklahoma where location adjustments should apply, it is not necessary to retain Oklahoma City as a basing point for this purpose.

The rate of adjustment of 1.5 cents per 10 miles for any plant location outside the State (except Texas), measured from the nearer of Tulsa or Ponca City and subtracted from the Class I and uniform prices applicable at these cities, will provide a reasonable alignment of the Oklahoma Metropolitan order prices with prices at plants serving other nearby markets that may compete with handlers under this order.

A similar location adjustment rate, 1.5 cents for each 10 miles or fraction thereof, is widely used in Federal orders and is recognized as being reasonably reflective of the cost of transporting milk. The adoption of the 1.5-cent rate, as herein provided, will provide for the Oklahoma Metropolitan market the same rate as is used in the other nearby markets under regulation. The revised schedule provided in this decision will not

change the location pricing at any of the 13 plants now regulated by the order. It will insure, however, that the location pricing at outlying plants that might become subject to the order will approximate the order price at the basing point location less the cost of moving milk to such point. The 10-cent difference in Class I prices between Tulsa (or Ponca City) and Oklahoma City allows for any movement of milk the greater distance to Oklahoma City.

The rate of 1.5 cents per hundredweight for each 10 miles from the nearer of Tulsa or Ponca City, as adopted in this decision, provides a more realistic transportation allowance from distant locations from the market than is presently provided in the order. The present location adjustment rates, which were instituted in the order in 1957, are not appropriate under current marketing conditions.

Revising the order's location adjustment provisions in the manner here adopted will not change appreciably the existing relationship between the Oklahoma Metropolitan Class I price and those in nearby Federal order markets.

The location adjustment applicable at Coffeyville, Kansas, under this decision would be 22 cents compared to the 16 cents provided under the existing order. While 4 cents less than proposed by the handler operating the Coffeyville plant, the change will provide him a rate of adjustment, if he becomes regulated under the Oklahoma Metropolitan order, similar to that applicable under nearby orders, i.e., available to handlers with whom he may compete.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a marketing agreement regulating the handling of milk, and an order amending the order regulating the handling of milk in the Oklahoma metropolitan marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the Federal Register. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

Determination of Producer Approval and Representative Period

August 1972 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Oklahoma Metropolitan marketing area is approved or favored by producers, as defined under the terms of the order, as amended and as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washington, D.C., on October 11, 1972.

Richard E. Lyng,
Assistant Secretary.

Order[1] Amending the Order Regulating the Handling of Milk in the Oklahoma Metropolitan Marketing Area

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Oklahoma Metropolitan marketing area.

The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Oklahoma metropolitan marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Deputy Administrator, Regulatory Programs, on September 1, 1972, and published in the Federal Register on September 8, 1972 (37 F.R. 18216), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein subject to the following modification in § 1106.81:

Section 1106.53 is revised as follows:

§ 1106.53 Location adjustment to handlers.

(a) At a plant in the State of Oklahoma north of Beckham, Washita,

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

Caddo, Canadian, Oklahoma, Pottawatomie, and Seminole Counties or east of Seminole, Pontotoc, Johnston, and Marshall Counties, and 50 miles or more from the city hall in Oklahoma City, the Class I price for milk received from producers shall be reduced 10 cents plus 1.5 cents for each 10 miles or fraction thereof that such plant is more than 150 miles from Oklahoma City.

(b) At a plant outside the States of Oklahoma and Texas, the Class I price for milk received from producers shall be the price applicable at Tulsa or Ponca City, Oklahoma, pursuant to paragraph (a) of this section reduced by 1.5 cents for each 10 miles or fraction thereof that such plant is from the nearer of the city halls in Tulsa or Ponca City.

(c) The distances applied pursuant to paragraphs (a) and (b) of this section shall be the shortest hard-surfaced highway distances as determined by the market administrator.

(d) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraphs (a) and (b) of this section.

(e) For purposes of calculating location adjustments, transfers between pool plants shall be assigned to Class I disposition at the transferee plant in an amount not in excess of that by which 105 percent of Class I disposition at the transferee plant exceeds the sum of receipts at such plant from producers and cooperative associations pursuant to § 1106.11(c), and the pounds assigned to Class I to receipts from other order plants and unregulated supply plants. Such assignment is to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

§ 1106.81 [Amended]

2. In § 1106.81, replace the three references therein to "§ 1106.53(a)" with "§ 1106.53."

[FR Doc.72-17657 Filed 10-16-72;8:48 am]

Agricultural Stabilization and Conservation Service

[7 CFR Part 724]

TOBACCO

Allotment and Marketing Quotas, 1972–73 and Subsequent Marketing Years

Pursuant to the authority contained in applicable provisions of the Agricultural Adjustment Act of 1938, as amended, the Department is preparing to amend the regulations pertaining to establishing farm acreage allotments and farm marketing quotas, lease and transfer of farm acreage allotments, release and reapportionment, the identification of marketings of tobacco and the records and reports incident thereto for Fire-cured, Dark air-cured, Virginia Sun-cured, Cigar-binder (types 51 and 52) and Cigar-filler and Binder (types 42, 43, 44, 53, 54, and 55) tobacco.

The purpose of this document is to give notice of the proposed changes in the regulations which are as follows:

1. Section 724.57 would be completely amended for clarification, to withdraw the provision that prohibited the establishment of an allotment for farms where the only history in the base period is history acreage restored because of violation of marketing quota regulations, and to provide that where the history acreage in the preceding year was not as much as 75 percent of the allotment, the preliminary acreage allotment shall be the simple average of the sum of the basic allotment and history acreage for the preceding year and that failed acreage and acreage prevented from being planted because of natural disaster to be included in computation of history acreage for the farm. It also would withdraw a special provision for determining history acreage for new farms making the determination of history for a new farm the same as that for an old farm.

2. Sections 724.60(b), 724.62, 724.67(a) and 724.72, would be amended to provide language uniformly adopted for all commodity allotments, quotas, and bases relative to making inequity adjustments, establishing new farm allotments and quotas and release and reapportionment.

3. Section 724.60(c) and the introductory phrase and subparagraph (1) of § 724.70(m) would be amended by changing the references to CR, CCP, and CAP farms to farms under long-term land use programs.

4. In § 724.67(b) the first and second sentences, 724.69(c)(1), the first sentence of § 724.70(b) and the first sentence of the main paragraph (a) and the last sentence of paragraph (b) of § 724.72 would be amended and § 724.73 would be added to require State committees to determine final dates for releasing farm allotments and reapportionment of allotments to farms, and for filing records of lease and transfer of farm acreage allotments.

5. In § 724.69, paragraph (q)(2) and in § 724.70, paragraph (v)(2) would be revised to permit the county committee, with State committee approval, to accept a late filed request to dissolve or revise a transfer effective for the current year if the producer was prevented from timely filing because of reasons beyond his control. In addition a new paragraph would be added to §§ 724.69 and 724.70 which would prohibit the transfer of allotments from federally owned land except where the land is leased back with uninterrupted possession to the former owner after acquisition under the right of eminent domain.

6. Section 724.86 would be amended by adding a sentence at the beginning to allow marketing of producer tobacco where AMS certification shows it to be a nonquota kind of tobacco and paragraph (h) would be revised to clarify that separate display on warehouse floor and separate records are required where quota and nonquota tobacco is sold on the same warehouse floor.

7. Section 724.88 would be amended by adding paragraph (d) to provide the 1971–72 average market prices and the rates of penalty for the 1972–73 marketiny year for various kinds of tobacco.

8. In § 724.90, the beginning sentence and the first sentence of § 724.97(c) would be amended to provide that in a quota area tobacco marketed from a farm under an AMS certification that such tobacco is a nonquota kind shall not be considered excess tobacco.

9. Section 724.95(f) would be amended to require the return of marketing cards to the county office where issued not later than 20 days after the close of auction markets for the season, except for cigar tobacco.

10. In §§ 724.96 and 724.97, the first sentence of each section would be amended to clarify that dealers and warehousemen are required to keep records and make reports separately for quota and nonquota tobacco.

11. Section 724.96(a)(3) would be amended, a new second sentence would be added at the beginning of § 724.97 and paragraph (e) of § 724.97 would be amended by revision to require dealers and warehousemen to prepare and maintain negative adjustment invoices.

12. In § 724.96(a), subparagraph (6) would be amended to require sale bills for warehouse resales to be identified as floor sweeping or leaf account tobacco, and subparagraphs (7) and (8) would be added to provide for orderly filing of sale bills and basket tickets by the warehouseman and to provide for determination by the Agricultural Marketing Service of this Department of tobacco presented for sale at an auction warehouse that is represented to be nonquota tobacco or there is question as to what kind of quota tobacco is being offered for sale.

13. In § 724.96(b), a new sentence would be added at the beginning to clarify that warehousemen shall not weigh in producer tobacco for marketing unless properly identified.

14. Sections 724.96(g) and 724.97(f) would be amended to clarify that the dealer or warehouseman reporting tobacco on hand on his final MQ–79 or MQ–80 is responsible for the actual weighing of such tobacco.

15. Section 724.96(j) would be added to require warehousemen to maintain copies of bill-out invoices to purchaser or daily summary journal sheet reflecting daily transactions.

16. In § 724.98, the first sentence would be amended to clarify that all dealers are required to make a daily report to warehouseman for buyers corrections account.

17. Section 724.104 would be amended to include warehouse bill-out invoices or daily summary journal sheet among the list of records to be maintained by warehousemen and to provide that basket tickets may be kept in an orderly manner by numerical order.

18. Section 724.110 would be amended by revising paragraphs (d) through (f) and adding paragraphs (g) through (i)

to provide for collection of producer cured leaf samples, chemical analysis of samples for residues of DDT and TDE, producer refusal to permit sampling, notice to farm operator of county committee determinations on use of DDT–TDE, and producer's right of appeal.

The proposed changes are set forth as follows:

1. Section 724.57 is amended to read as follows:

§ 724.57 Determination of preliminary acreage allotments and tobacco history acreage for old farms.

(a) *Determination of preliminary acreage allotments*—(1) *Farms with history acreage in base period.* A preliminary farm acreage allotment shall be determined for each farm which has tobacco history acreage, as defined and explained in paragraph (b) of this section, in the base period, except that no preliminary farm acreage allotment shall be established in the current year under any one of the following conditions: (i) A new farm allotment was established in any prior year but was canceled for such year and the farm had no other tobacco history acreage during the base period; (ii) an allotment was pooled under Part 719 of this chapter but was canceled; or (iii) the county committee determines that the farm has been retired from agricultural production and the farm was not or could not have been acquired under right of eminent domain by the acquiring person or agency. This subdivision (iii) shall not preclude the determination of a preliminary acreage allotment for an old farm returned to agricultural production if the allotment for the retired land was not allocated to other land contained in the farm of which the retired land was a part, or for a farm for which an acreage allotment may be determined under the provisions of § 724.67(a).

(2) *Preliminary farm acreage allotments.* The preliminary farm acreage allotment for the current year for a farm which qualifies for a preliminary farm acreage allotment under subparagraph (1) of this paragraph shall be the same as the basic allotment for the preceding year: *Provided,* That if the tobacco history acreage for the farm in the immediately preceding year was not as much as 75 percent of the basic allotment, the preliminary acreage allotment shall be the simple average of the sum of the basic allotment and history acreage for the preceding year.

(b) *Determination of tobacco history acreage.* Tobacco history acreage shall be determined for each farm for which a tobacco farm acreage allotment has been established for the current year.

(1) *Farm acreage allotment fully preserved.* The farm acreage allotment is fully preserved as tobacco history acreage for any year if: (i) In such year or either of the two immediately preceding years the sum of (*a*) the final tobacco acreage (including failed acreage and acreage prevented from being planted because of a natural disaster) as determined under Part 718 of this chapter, (*b*) the acreage leased and transferred from the farm, (*c*) the acreage regarded as planted under the conservation practices determined pursuant to Part 719 of this chapter, and (*d*) the acreage temporarily released to the State committee under the provisions of § 724.72, was as much as 75 percent of the basic allotment after any reduction for violation, or (ii) the farm consists of federally owned land for which a restrictive lease is in effect prohibiting the production of tobacco; or (iii) in such year or either of the two immediately preceding years the farm acreage allotment was in the eminent domain pool.

(2) *Computed history acreage.* If the farm acreage allotment is not fully preserved as tobacco history acreage under subparagraph (1) of this paragraph, the tobacco history acreage shall be the sum of the acreage (not to exceed the farm acreage allotment) as follows:

(i) Final tobacco acreage (including failed acreage and acreage prevented from being planted because of a natural disaster) as determined under Part 718 of this chapter.

(ii) Acreage regarded as planted under the conservation programs and conservation practices determined pursuant to Part 719 of this chapter.

(iii) Acreage temporarily released to the State committee under the provisions of § 724.72.

(iv) Acreage leased and transferred from the farm.

(v) Acreage reduced for violation of the regulations of this part.

2. In § 724.60, the first sentence of paragraph (b) and paragraph (c) are revised to read as follows:

§ 724.60 Corrections of errors and adjusting inequities in acreage allotments for old farms.

* * * * *

(b) *Basis for adjustment.* Acreage increases to adjust inequities in acreage allotments shall be made on the basis of the past farm acreage and past farm acreage allotments of tobacco, making due allowances for failed acreage and acreage prevented from being planted because of a natural disaster as determined under Part 718 of this chapter; land, labor and equipment available for the production of tobacco; crop rotation practices; and the soil and other physical factors affecting the production of tobacco. * * *

(c) *Farms under long-term land use programs.* The allotment for a farm under a long-term land use program agreement shall be given the same consideration under this section as the allotment for any other old farm.

* * * * *

3. Section 724.62 is amended to read as follows:

§ 724.62 Determination of acreage allotments for new farms.

The acreage allotment, other than an allotment made under § 724.67(a), for a new farm shall be that acreage which the county committee, with approval of the State committee, determines is fair and reasonable for the farm, taking into consideration the past tobacco experience of the farm operator, the land, labor, and equipment available for the production of tobacco; crop rotation practices; and the soil and other physical factors affecting the production of tobacco: *Provided,* That, the acreage allotment so determined shall not exceed 50 percent (75 percent for Cigar-binder and Cigar-filler and Binder tobacco) of the average of the acreage allotments established for two or more but not more than five old farms which are similar with respect to land, labor, and equipment available for the production of tobacco, crop rotation practices, and the soil and other physical factors affecting the production of tobacco: *And provided further,* That, if the areage planted to tobacco on a new tobacco farm is less than 75 percent of the tobacco acreage allotment otherwise established for the farm pursuant to this section, such allotment shall be automatically reduced to the sum of the tobacco planted acreage and the prevented planted tobacco acreage as determined under Part 718 of this chapter for the farm.

(a) *Written application.* The farm operator must file an application for a new farm allotment at the office of the county committee where the farm is administratively located on or before February 15 of the year for which the new farm allotment is requested.

(b) *Eligibility requirements for operator.* A new farm allotment may be established if each of the following conditions is met:

(1) *Owner and operator of the farm.* The operator shall be the sole owner of the farm. For the purpose of applying this subparagraph (1) a person who owns only part of a farm cannot be considered the owner of the farm except that both husband and wife shall be considered the owner and operator of a farm which they jointly own. For Cigar-binder and Cigar-filler and Binder tobacco, the operator need not own the farm.

(2) *Interest in another farm.* The farm operator shall not own or operate any other farm in the United States for which a tobacco allotment or quota is established for the current year.

(3) *Availability of equipment and facilities.* The operator must own, or have readily available, adequate equipment and any other facilities of production necessary to the production of tobacco on the farm.

(4) *Income requirement (except cigar tobacco).* The operator must expect to obtain during the current year more than 50 percent of his income from the production of agricultural commodities or products.

(i) *Computing operator's income.* The following shall be considered in computing operator's income:

(*a*) *Income from farming.* Income from farming shall include the estimated return from home gardens, livestock and livestock products, poultry, or other agricultural products produced for home consumption or other use on the farm(s). The estimated return from the

production of the requested new farm allotment shall not be included.

(b) *Income from nonfarming.* Nonfarming income shall include but shall not be limited to salaries, commissions, pensions, social security payments, and unemployment compensations.

(c) *Spouse's income.* The spouse's farm and nonfarm income shall be used in the computation.

(ii) *Operator a partnership.* If the operator is a partnership, each partner must expect to obtain more than 50 percent of his current year income from farming.

(iii) *Operator a corporation.* If the operator is a corporation, it must have no other major corporate purpose other than ownership or operation of the farm(s). Farming must provide its officers and general manager with more than 50 percent of their expected income. Salaries and dividends from the corporation shall be considered as income from farming.

(iv) *Special provision for low-income farmers (except cigar tobacco).* The county committee may waive the income provisions in this section provided they determine that the farm operator's income, from both farm and nonfarm sources, is so low that it will not provide a reasonable standard of living for the operator and his family, and a State committee representative approves such action. In waiving the income provisions the county committee must exercise good judgment to see that their determination is reasonable in the light of all pertinent factors, and that this special provision is made applicable only to those who qualify. In making their determination, the county committee shall consider such factors as size and type of farming operations, estimated net worth, estimated gross family income, estimated family off-farm income, number of dependents, and other factors affecting the individual's ability to provide a reasonable standard of living for himself and his family.

(5) *Experience*—(i) *Fire-cured, Dark air-cured, and Virginia Sun-cured.* Operator must have had experience in producing, harvesting, and marketing the kind of tobacco requested. Such experience must have been gained: by being a sharecropper, tenant, or farm operator (bona fide tobacco production experience gained by a person as a member of a partnership shall be accepted as experience gained in meeting this requirement) during at least 2 of the 5 years immediately preceding the year for which the new farm allotment is requested. If the operator was in the armed services during the 5-year period, the period shall be extended 1 year for each year of military service during the 5 years. The experience must have been gained on a farm having a tobacco allotment for such years for the kind of tobacco requested in the application.

(ii) *Cigar-binder and Cigar-filler and Binder.* Operator shall have had experience in any prior year in the production of tobacco as a farm owner, farm operator, sharecropper, tenant, warehand, or laborer on a farm which produced the kind of tobacco for which an allotment is requested in the application.

(c) *Eligibility requirements for the farm.* A new farm allotment may be established if each of the following conditions is met:

(1) *Current allotment or quota.* The farm must not have on the date of approval of a new farm acreage allotment an allotment or quota for any kind of tobacco.

(2) *Available land, type of soil, and topography.* The available land, type of soil, and topography of the land on the farm must be suitable for tobacco production. Also continuous production of tobacco must not result in an undue erosion hazard.

(3) *Entire allotment permanently transferred by sale or owner.* A farm which includes land from which the entire farm allotment for Fire-cured, Dark air-cured, or Virginia Sun-cured tobacco is transferred by sale or by owner to another farm owned or controlled by him, under § 724.70, shall not be eligible for a new farm tobacco allotment for the kind transferred during the 5 years following the year in which such transfer is made.

(4) *Entire allotment permanently released.* A farm which includes land from which the entire tobacco allotment was permanently released shall not be eligible for a new farm allotment for a period of 5 years beginning with the year the release was effective.

(5) *Entire allotment designated by owner where farm reconstituted.* A farm which includes land which has no tobacco allotment because the owner did not designate a tobacco allotment for such land when the parent farm was reconstituted pursuant to Part 719 of this chapter shall not be eligible for a new farm tobacco allotment for a period of 5 years beginning with the year in which the reconstitution became effective.

(6) *Eminent domain acquisition.* A farm which includes land acquired by an agency having the right of eminent domain for which the entire tobacco allotment was pooled pursuant to Part 719 of this chapter, which is subsequently returned to agricultural production, shall not be eligible for a new farm allotment for a period of 5 years from the date the former owner was displaced.

(7) *Downward adjustment.* The acreage allotment established as provided in this section for each kind of tobacco shall be subject to such downward adjustment as is necessary to bring such allotments in line with the total acreage available for allotment to all new farms.

(8) *False information.* Any new farm acreage allotment which was determined by the county committee on the basis of incomplete or inaccurate information knowingly furnished by the applicant shall be canceled by the county committee as of the date the allotment was established. When incomplete or inaccurate information was unknowingly furnished by the applicant, the allotment shall be canceled effective for the current crop year except where the provisions of § 724.65(d) apply.

(9) *Eligibility for released acreage for Cigar-binder and Cigar-filler and Binder tobacco.* Any new farm allotment established under this section may also be considered by the county committee to receive additional acreage from the acreage released to the State committee under § 724.72.

4. In § 724.67 the section heading and paragraph (a) and the first and second sentences of paragarph (b) are revised to read as follows:

§ 724.67 Release and reapportionment of allotments determined for farms acquired by an agency having the right of eminent domain, or shifted from production of Cigar-binder (types 51 and 52) tobacco and Cigar-filler and Binder (types 42, 43, 44, 53, 54, and 55) tobacco to production of shade-grown Cigar-leaf (type 61) wrapper tobacco.

(a) The determination of allotments for farms acquired by an agency having the right of eminent domain, the transfer of such allotments to a pool, and the reapportionment from the pool shall be administered as provided in Part 719 of this chapter. The normal yield for each farm to which a reapportionment is made shall be determined as provided in § 724.59 for determining normal yields for old farms.

(b) The displaced owner of a farm may, not later than the final release date established by the State committee for the current year, release in writing to the county committee for the current year all or part of the acreage for the farm in a pool under Part 719 of this chapter for reapportionment for the current year by the county committee to other farms in the county having allotments for the same kind of tobacco. The county committee may reapportion, not later than the final date established by the State committee for requesting reapportioned acreage for the current year, the released acreage or any part thereof to other farms in the county on the basis of the past farm acreage and past farm acreage allotments for the same kind of tobacco; land, labor, equipment available for the production of such kind of tobacco; crop rotation practices; and soil and other physical factors affecting the production of such kind of tobacco. * * *

* * * * *

5. In § 724.69, paragraph (c)(1) and paragraph (q)(2) are revised and a new paragraph (t) is added to read as follows:

§ 724.69 Lease and transfer of tobacco acreage allotment—Cigar-Binder (Types 51 and 52) and Cigar-filler and Binder (Types 42, 43, 44, and 53) tobacco.

* * * * *

(c) *Filing and approval of transfer agreement*—(1) *Filing transfer agreement.* The lease and transfer of any allotment or any part thereof from the farm for which the allotment was established to another tobacco farm shall not

become effective until a copy of the transfer agreement, determined by the county committee to be in compliance with the provisions of this section, is filed with the county committee not later than the final filing date for the current year established by the State committee, except that a lease shall be effective if the county committee, with the approval of a State committee representative, finds that the producer was prevented from timely filing the transfer agreement due to reasons beyond his control. The county committee may redelegate authority to approve leasing agreements to the county executive director. The filing of a properly executed Form ASCS–375, Record of Transfer of Allotment or Quota, will be considered to meet the requirements of this subparagraph (1).

* * * * *

(q) *Cancellation, dissolution, or revision of transfer.* * * *

(2) *Dissolution or revision.* A transfer agreement may be dissolved or minor revisions made where a request by all parties to the agreement is made in writing to the county committees. Such written notification shall be filed prior to planting the tobacco. A late filed request to dissolve or revise the transfer may be effective for the current year if the county committee with approval of a State committee representative determines that the producer was prevented from timely filing for reasons beyond his control.

* * * * *

(t) *Federally owned land.* No transfer under this section shall be made from any land owned by the United States, or any agency or instrumentality wholly owned by the United States, except that the transfer may be approved in cases where the land is leased back with uninterrupted possession to the former owner after acquisition under right of eminent domain. For such transfers, the Government agency or instrumentality is not required to sign the record of transfer.

6. Section 724.70 is amended by revising the section heading, paragraph (b), the paragraph heading and subparagraph (1) of paragraph (m), the proviso of the second sentence of paragraph (s), and the heading and text of subparagraph (2) of paragraph (v), and adding a new paragraph (x) to read as follows:

§ 724.70 Transfer of Fire-cured, Dark air-cured, and Virginia Sun-cured tobacco allotments by lease, sale, or by owner under section 318 of the act.

* * * * *

(b) *Time for filing records of transfer.* For a transfer to be effective in the current year, a Form ASCS–375, Record of Transfer of Allotment or Quota, shall be filed with the county committee no later than the final date for filing records of transfer established by the State committee for the current year. The State committee may authorize the acceptance of a late-filed ASCS–375 in cases where the county committee determines that the late filing resulted from reason(s) beyond the producer's control.

* * * * *

(m) *Farms under long-term land use programs.* (1) (i) Temporary transfer of an allotment to or from a farm covered by a long-term land use program agreement shall not be approved if the transferring or receiving farm has the allotment crop base for a kind of tobacco designated under such program agreement; (ii) permanent transfer by sale or by owner of an allotment may be approved for any farm under a CAP or CCP agreement.

* * * * *

(s) *Farm in violation.* * * * *Provided,* That, if the transfer was by lease, the allotment reduction for such farm shall be delayed until the following year.

* * * * *

(v) *Cancellation, dissolution, or revision of transfer.* * * *

(2) *Dissolution or revision.* A transfer agreement may be dissolved or minor revisions made where a request by all parties to the agreement is made in writing to the county committee. Such written notification shall be filed prior to planting the tobacco. A late-filed request to dissolve or revise the transfer may be effective for the current year if the county committee with approval of a State committee representative determines that the producer was prevented from timely filing for reason(s) beyond his control.

* * * * *

(x) *Federally owned land.* No transfer under this section shall be made from any land owned by the United States, or any agency or instrumentality wholly owned by the United States, except that the transfer may be approved in cases where the land is leased back with uninterrupted possession to the former owner after acquisition under right of eminent domain. For such transfers, the Government agency or instrumentality is not required to sign the record of transfer.

7. Section 724.72 is revised to read as follows:

§ 724.72 Release and reapportionment of old farm acreage allotments for Cigar-binder (types 51 and 52) and Cigar-filler and Binder (types 42, 43, 44, 53, 54, and 55) tobacco.

(a) *Annual or permanent release of acreage allotments to State committee.* Except as provided in this paragraph, all or any part of a farm acreage allotment on which Cigar-binder (types 51 and 52) or Cigar-filler and Binder (types 42, 43, 44, 53, 54, and 55) tobacco will not be produced and which the operator of the farm voluntarily releases on an annual basis, or both the owner and operator voluntarily releases on a permanent basis, in writing to the State committee by not later than the final date for filing releases established by the State committee for the current year shall be deducted from the allotment of such farm.

(1) For the farm voluntarily releasing tobacco farm acreage allotment on an annual basis, such acreage will be considered as having been planted on the releasing farm for the purpose of establishing allotments for subsequent years. For the farm receiving such annual released acreage such acreage shall not be taken into account in establishing future allotments for the farm. The tobacco history acreage for a farm releasing on a permanent basis shall be adjusted downward to reflect the acreage permanently released.

(2) Acreage allotments shall not be released either annually or permanently (i) from a farm owned by the Federal Government or any agency thereof if there is in effect a lease or operating agreement prohibiting the production of Cigar-binder (Types 51 and 52) or Cigar-filler and Binder (Types 42, 43, 44, 53, 54 and 55) tobacco, (ii) from the eminent domain allotment pool if an application for transfer from the pool has been filed in accordance with Part 719 of this chapter, (iii) from new farms, or (iv) from a farm covered by a whole farm Conservation Reserve Contract, by a whole farm Cropland Conservation Program agreement entered into in 1966 and 1967, or by a Cropland Adjustment Program agreement.

(b) *Reapportionment or released acreage allotment.* The acreage voluntarily released on an annual or permanent basis for the current year may be reapportioned by the State committee to any farm in any county in the State. In addition, a farm receiving a new farm allotment may be considered for an increase as set forth in § 724.62(h). The State committee shall select the counties to which the released acreage will be reapportioned. The county committee shall select the farms to which the released acreage will be reapportioned. The State committee shall keep records on both an annual and permanent basis of the source of acreage released. Any acreage released for the current year on an annual basis which is not reapportioned by the State committee in the current year shall not be available for use in any subsequent year. Any acreage released for the current year on a permanent basis which is not reapportioned by the State committee in the current year may be reapportioned in the following year. The county committee for the county receiving released acreage may reapportion the tobacco allotment acreage on an annual or permanent basis to other farms in the county in amounts determined by the county committee to be fair and reasonable on the basis of land, labor, and equipment available for production of Cigar-binder (types 51 and 52) or Cigar-filler and Binder (types 42, 43, 44, 53, 54, and 55) tobacco; crop rotation practices; and the soil and other physical factors affecting the production of tobacco. Released acreage should not be reapportioned on a temporary or permanent basis to any farm unless there is assurance from the operator to the county

committee that the released acreage being received will be produced. Allotment reapportioned to a farm on an annual basis can only be used by the receiving farm for increased production during the current year. Allotment reapportioned to a farm on a permanent basis shall be added to the current year allotment if the farm has an allotment or serve to establish an allotment for a farm that does not currently have one. A farm shall be eligible to receive reapportionment of released acreage on either or both an annual or permanent basis only if a written request is filed by the farm owner or operator at the office of the county committee not later than the final date for filing such requests established by the State committee for the current year.

8. Section 724.73 is added to read as follows:

§ 724.73 Final date for filing record of transfer, release, filing request for reapportioned acreage, and reapportionment.

The State committee shall establish a final date for filing records of transfers, releasing acreage allotments to the county and State committees and for filing requests to receive reapportioned acreage allotment from the county committee for the current year. Such date(s) shall be for the entire State or for areas consisting of one or more counties in the State taking into consideration normal planting dates within the State. The dates will be determined and announced by regulations in this subpart or amendment thereto.

9. Section 724.86 is amended by adding a sentence immediately preceding paragraph (a) of the section and revising paragraph (h) to read as follows:

§ 724.86 Identification of marketings, excluding cigar tobacco.

Each auction and nonauction marketing of producer tobacco from a farm in a quota area shall be identified by a marketing card, MQ–76 or MQ–77, issued for the farm unless an AMS certification shows it to be nonquota tobacco.

* * * * *

(h) *Separate display on auction warehouse floor.* Any warehouseman upon whose floor more than one kind of tobacco is offered for sale at public auction shall for each different kind of tobacco:

(1) Display it in separate areas on the auction warehouse floor.

(2) Identify each basket by a distinguishably different basket ticket clearly showing the kind of tobacco.

(3) Make and keep records that will insure a separate accounting and reporting of each of such kinds of tobacco (quota or nonquota) sold at auction over the warehouse floor.

* * * * *

10. Section 724.88 is amended by adding paragraph (d) to read as follows:

§ 724.88 Rate of penalty.

* * * * *

(d) (1) *1971–72 average market price.* The average market price for the kinds of tobacco listed below as determined by the Crop Reporting Board, Statistical Reporting Service, U.S. Department of Agriculture, for the 1971–72 marketing year was:

AVERAGE MARKET PRICE

Kinds of tobacco:	Cents per pound
Fire-cured (type 21)	54.8
Fire-cured (types 22, 23, 24)	60.8
Dark air-cured	47.1
Virginia Sun-cured	54.1
Cigar-filler and Binder (types 42, 43, 44, 53, 54, and 55)	53.1
Cigar-binder (types 51 and 52)	65.5

(2) *1972–73 rate of penalty per pound.* The penalty rate per pound for the kinds of tobacco listed below upon marketings of excess tobacco subject to marketing quotas during the 1972–73 marketing year shall be:

RATE OF PENALTY

Kinds of tobacco:	Cents per pound
Fire-cured (type 21)	41
Fire-cured (types 22, 23, 24)	46
Dark air-cured	35
Virginia Sun-cured	41
Cigar-filler and Binder (types 42, 43, 44, 53, 54, and 55)	40
Cigar-binder (types 51 and 52)	(1)

[1] Quotas terminated for 1972 crop.

11. Section 724.90 is amended by revising the first sentence of the section and the second sentence of paragraph (d) to read as follows:

§ 724.90 Penalties considered to be due from warehousemen, dealers, buyers and others excluding the producer.

Any marketing of tobacco from a farm in a quota tobacco producing area under any one of the following conditions shall be considered to be a marketing of excess tobacco (unless prior to the marketing of such tobacco an AMS inspection certificate is obtained showing that the tobacco offered for sale is a kind of tobacco not subject to marketing quotas).

* * * * *

(d) *Leaf account tobacco.* * * * The actual quantity of floor sweepings which the State executive director determines has been properly identified as floor sweepings and sold and reported as such by the warehouseman shall be considered acceptable proof that such marketings are not marketings of excess tobacco if the amount thereof for the warehouse does not exceed the floor sweepings for the season determined by multiplying the limitation set forth in § 724.51(j) by total first sales at auction for Fire-cured, Dark Air-cured and Virginia Sun-cured tobacco.

* * * * *

§ 724.95 [Amended]

12. Section 724.95(f) is amended by revising the phrase "not later than 30 days" following the fourth comma of the first sentence to read "not later than 20 days."

13. In § 724.96, a general statement at the beginning of the section, new subparagraphs (7) and (8) of paragraph (a), a new sentence at the beginning of paragraph (b), and a new paragraph (j) are added, and paragraphs (a)(3), (a)(6), and (g)(13) are revised to read as follows:

§ 724.96 Warehouseman's records and reports.

Each warehouse shall keep the records and make the reports separately for each kind of tobacco (quota or nonquota) as provided in this section.

(a) *Record of marketings.* * * *

(3) *Buyers corrections account.* Each warehouseman shall keep such records including negative adjustment invoices as will enable him to furnish the State ASCS office on Form MQ–71, the total pounds of the debits (for returned baskets, short baskets and short weights of tobacco) and credits (for long baskets and long weights of tobacco) to the Buyers Corrections Account. Where the warehouseman returns to the seller tobacco debited to the Buyers Corrections Account, the warehouseman shall prepare an adjustment invoice to the seller. This invoice shall be the basis for a credit entry for the warehouse in the Buyers Corrections Account and a corresponding purchase (debit entry) in the case of a dealer on his MQ–79, Dealer's Record. Any balancing figure reflected on the warehouseman's summary of bill-outs shall not be included in the Buyers Corrections Account.

* * * * *

(6) *Labeling tobacco sale bill for resale tobacco.* In the case of resales, each sale bill shall show resale and: (i) For dealers, the name of the dealer making each resale; and (ii) for the warehouse, the name of the warehouse and either "floor sweepings" or "leaf account" tobacco.

(7) *Filing sale bills.* At the end of each sale day, the tobacco sale bills shall be sorted and filed by numerical order by sale dates, and basket tickets shall be filed in an orderly manner by sale dates or by numerical order.

(8) *Nonquota tobacco or quota tobacco of a different kind.* Should tobacco be presented for sale that is represented to be nonquota tobacco or there is question as to what kind of quota tobacco is being offered, an inspection shall be obtained from the Agricultural Marketing Service (AMS) of this Department after the tobacco is weighed and in line for sale. If an AMS inspection shows that a basket or lot of tobacco is of a different kind than that identified by the basket ticket after it is weighed in and a sale bill prepared, such tobacco shall be deleted from the original sale bill and a revised sale bill prepared.

(b) *Identification of producer sales of tobacco.* The warehouseman shall not weigh in any producer tobacco for sale unless a marketing card (MQ–76 or MQ–77) is furnished the weighman or the tobacco is represented to be a nonquota kind which is required to be displayed in a separate area on the warehouse floor under § 724.86(h). * * *

* * * * * *

(g) *Daily report of auction warehouse business.* * * *

(13) At the end of the season, each warehouseman shall: (i) Report on his final MQ–80 for the season the quantity of leaf account tobacco and floor sweepings, if any, on hand and its location, (ii) permits its inspection by a representative of ASCS, and (iii) provide for the weighing of such tobacco (to be witnessed by ASCS) and furnish to ASCS at that time a certification as to the actual weight of such tobacco. After the weight of such tobacco has been obtained as provided in subdivision (iii) of this subparagraph, it shall be considered as the official weight for comparing purchases and resales for the purpose of determining the amount of penalty, if penalty is due. Separate data shall be reported for floor sweeping tobacco.

* * * * *

(j) *Maintaining copies of bill-out invoices to purchaser or daily summary journal sheet to reflect daily transactions.* For each marketing year, the warehouseman shall maintain copies of the bill-out invoice to the purchaser by grades showing the pounds purchased. In lieu of this requirement, the warehouseman may prepare and maintain for each sale day on a current basis a daily summary journal sheet to reflect for each purchaser (including warehouse leaf account or other similar account) pounds and dollar amounts for:

(1) Tobacco originally billed to the purchaser.

(2) Mathematical billing errors and corrections (added and deducted) from purchaser's adjustment invoices.

(3) Short (deducted) and long (added) weights from purchaser's adjustment invoices.

(4) Short (deducted) and long (added) baskets from purchaser's adjustment invoices.

(5) Net tobacco received and paid for by purchaser.

14. Section 724.97 is amended by revising the general statement at the beginning of the section, the first sentence of paragraph (c), and paragraph (e) and (f) to read as follows:

§ 724.97 Dealer's record and reports, excluding Cigar tobacco buyers.

Each dealer, except as provided in § 724.98, or any other person as provided in paragraph (e) of this section, shall keep by kinds of tobacco the records and make the reports separately for each kind (quota and nonquota) of tobacco as provided by this section. Adjustment invoices, including the adjustment invoices for any sale day for which there is no adjustment to be made, required to be furnished to an auction warehouse shall be identified by the warehouse identification number (if applicable) and the reporting dealer's identification number (if applicable) as well as the names of the warehouse and dealers involved in the transaction.

* * * * *

(c) *Nonauction sale (country purchase) to a dealer.* Each purchase of tobacco by a dealer from a producer from from a quota producing area other than through an auction sale, including farm scrap tobacco obtained from grading tobacco for farmers or as a result of furnishing curing space or stripping space, shall be identified by an MQ–76 or MQ–77 (including a sale memo from the marketing card) issued for the farm on which the tobacco was produced (unless prior to purchase as AMS inspection certificate is obtained showing that the tobacco offered for sale is of a kind of tobacco not subject to marketing quotas). * * *

* * * * *

(e) *Daily report to warehouseman for buyers' corrections account.* Notwithstanding the provisions of § 724.98, reports shall be made as follows:

(1) Any dealer, buyer, or any other person receiving tobacco from or through a warehouseman at an auction sale or otherwise, which is not invoiced to him or which is incorrectly invoiced to him by the warehouseman, shall furnish to the warehouseman on a daily sales basis an adjustment invoice or buyers settlement sheet.

(2) Each dealer who purchases tobacco on a warehouse floor for any sale day in which there is no adjustment required in the account as shown on the warehouse bill-out invoice for that sale day, shall file a negative report with the warehouseman for that sale day.

(3) Such reports as required under subparagraph (1) and (2) of this paragraph shall be furnished daily, if practicable (otherwise, they shall be furnished at the end of each week), and shall show the identification number of the purchasing dealer (if applicable) and the identification number of the warehouse (if applicable), where the purchase was made.

(f) *Final report for season.* Not later than April 1, each dealer who bought, or sold or had tobacco available for marketing during the current year, shall for each kind of tobacco: (1) Show the word "final" on his final report, MQ–79, for the season, (2) report on such final MQ–79 for the season the quantity of tobacco on hand and its location, (3) permit its inspection by a representative of ASCS, and (4) provide for weighing of such tobacco (to be witnessed by ASCS) and furnish to ASCS at that time a certification as to the actual weight of such tobacco. After the weight of such tobacco has been determined as provided in subparagraph (4) of this paragraph, it shall be considered as the official weight for comparing purchases and resales for the purpose of determining the amount of penalty, if penalty is due.

15. The first sentence in § 724.98 is amended to read as follows:

§ 724.98 Dealers exempt from regular records and reports, excluding cigar tobacco buyers.

Any dealer or buyer who acquires tobacco only at an auction sale and resells, in the form in which tobacco ordinarily is sold by farmers, 5 percent or less of any such tobacco shall not be subject to the provisions of § 724.97 except as provided in paragraph (e) of § 724.97: *Provided,* That, where deemed necessary, the Director, Commodity Stabilization Division, or the State committee may require a report of all tobacco purchased by the dealer without regard to the 5-percent exemption. * * *

16. Section 724.104 is amended by adding in paragraph (a) the language "warehouse bill-out invoices or daily summary journal sheets," immediately following the language "documents," and in paragraph (b) a second sentence to read as follows:

§ 724.104 Examination of records and reports.

(a) *Examination.* * * * warehouse bill-out invoices or daily summary journal sheet, * * *

(b) *Orderly retention of records.* * * * In lieu of filing by sale dates, basket tickets may be filed in orderly manner by numerical order.

17. Section 724.110 is amended by revising paragraphs (d) through (f) and adding paragraphs (g) through (i) to read as follows:

§ 724.110 Determination of use of DDT and TDE.

* * * * *

(d) *Producers right to recertify.* Any producer on a farm shall have the right to recertify on MQ–38 to the use or nonuse of DDT or TDE if the recertification is filed with the county committee prior to the time any tobacco has been marketed from the farm or a request has been made to collect a sample of cured leaves.

(e) *Collection of samples for chemical analysis.* Samples shall be collected from selected producer tobacco crops during weigh-in at the auction warehouse. Samples shall also be collected on any farm where the county committee has reason to believe the producer used DDT or TDE on the tobacco and the producer certified to nonuse of DDT or TDE on the crop.

(f) *Producer refusal to permit sampling.* If a producer or producer representative refuses to permit the sampling of a tobacco crop, all tobacco of such crop produced on the farm shall be considered by the county committee to have been treated with DDT or TDE.

(g) *Chemical analyzation of samples.* Each sample shall be analyzed for residues of DDT, TDE and their metabolites.

(h) *Notice to farm operator.* A written notice shall be furnished to the operator of each farm where the county committee determines that tobacco, after being transplanted in the field or after being harvested from a farm, was treated with DDT or TDE. Such determination by the county committee shall be based on (1) the certification on MQ–38, or (2) failure to file MQ–38, or (3) refusal to permit sampling, or (4) chemical analysis showing total DDT–TDE residue to be greater than or equal to 3.0 parts per million. The notice to the farm operator shall constitute notice to all persons who,

as owner, operator, landlord, tenant, or sharecropper, are interested in the tobacco being grown on the farm.

(i) *Producer's right to appeal.* Any producer on a farm who believes that the DDT–TDE determination for the farm by the county committee is not correct may file an appeal with the county committee asking for reconsideration of such determination. The request for appeal and facts constituting a basis for such reconsideration must be submitted in writing and postmarked or delivered to the county committee within 7 days after the date of mailing of the notice of such determination. The request for appeal must be signed by the person making the appeal. If the appellant believes that the county committee's determination of such appeal is not correct, he may appeal to the State committee within 7 days after the date of mailing of the notice of the decision of the county committee. The decision of the State committee shall be final.

Prior to issuance of the proposed changes in the regulations, data, views, or recommendations pertaining thereto which are submitted to the Director, Commodity Stabilization Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250, will be given consideration. To be sure of consideration, such submission should be postmarked not later than 15 days after date of publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at such times and places in the manner convenient to the public business (7 CFR 1.27 (b)).

Signed at Washington, D.C., on October 12, 1972.

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

[FR Doc.72-17689 Filed 10-16-72;8:51 am]

Commodity Credit Corporation

[7 CFR Part 1464]

FIRE-CURED, DARK AIR-CURED, AND VIRGINIA SUN-CURED TOBACCO

Notice of Advance Grade Rates for Price Support on 1972 Crop

Consideration will be given to data, views, and recommendations pertaining to the advance rates set out in this notice which are submitted in writing to the Director, Tobacco Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250. All submissions, in order to be sure of consideration, must be received not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER.

Under the Tobacco Loan Program published June 18, 1970 (35 F.R. 1000), and amended June 17, 1971 (36 F.R. 11634, 12509), and August 5, 1972 (37 F.R. 15856), CCC proposes to establish advance rates by grades for the 1972 crop Fire-cured tobacco, Types 21 and 22–23, Dark air-cured tobacco, types 35 and 36, and Virginia sun-cured tobacco, Type 37.

With respect to Virginia sun-cured tobacco, a notice of a proposal to establish advance rates for both untied and tied tobacco was published in the FEDERAL REGISTER May 26, 1972 (37 F.R. 10672). In response to that notice, the export buyers, who normally purchase a substantial portion of each year's production, furnished information showing that the foreign users of Virginia sun-cured tobacco are not presently equipped to use untied tobacco, and expressed views that untied marketings would substantially reduce export sales. After consideration of all the responses received, it was decided that for the 1972 crop, as in the past, price support would be provided only on tied tobacco, the traditional form of marketing for Virginia sun-cured tobacco.

The proposed rates, as set forth herein, calculated to provide the levels of support of 50.8 cents per pound for the Fire-cured types and 45.2 cents per pound for the Dark air-cured and Virginia sun-cured types, as determined under section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445), are as follows:

Sec.

AUTHORITY: The provisions of §§ 1464.17–1464.20 issued under sec. 4, 62 Stat. 1070, as amended, sec. 5, 62 Stat. 1072, secs. 101, 106, 401, 403, 63 Stat. 1051, as amended, 1054, 74 Stat. 6; 7 U.S.C. 1441, 1445, 1421, 1423, 15 U.S.C. 714b, 714c.

§ 1464.17 1972 crop—Virginia Fire-cured tobacco, Type 21—advance schedule.[1]

[Dollars per hundred pounds, farm sales weight]

Grade	Length 47	Length 46	Length 45	Length 44	Length 43
A2F	69.25	69.25	69.25		
A2F	65.25	65.25	66.25		
A1D	69.25	69.25	69.25		
A2D	65.25	65.25	65.25		
B1F	68.25	68.25	68.25		
B2F	62.25	62.25	63.25	58.25	
B3F	55.25	55.25	56.25	55.25	46.25
B4F	51.25	51.25	52.25	50.25	44.25
B5F	46.25	46.25	47.25	46.25	41.25
B1D	68.25	68.25	68.25		
B2D	61.25	61.25	62.25	57.25	
B3D	53.25	53.25	54.25	52.25	46.25
B4D	49.25	49.25	50.25	49.25	44.25
B5D	44.25	44.25	45.25	44.25	41.25
B3M	50.25	50.25	51.25	50.25	46.25
B4M	47.25	47.25	48.25	47.25	44.25
B5M	44.25	44.25	45.25	44.25	39.25
B3G	47.25	47.25	48.25	47.25	43.25
B4G	45.25	45.25	46.25	45.25	42.25
B5G	42.25	42.25	43.25	42.25	38.25
C1L	73.25	73.25	74.25		
C2L	69.25	69.25	70.25	62.25	
C3L	60.25	60.25	61.25	59.25	
C4L	53.25	53.25	54.25	53.25	
C5L	48.25	48.25	49.25	47.25	
C1F	72.25	72.25	73.25		
C2F	68.25	68.25	69.25	62.25	
C3F	59.25	59.25	60.25	56.25	
C4F	53.25	53.25	54.25	53.25	
C5F	48.25	48.25	50.25	48.25	
C2D	48.25	48.25	49.25	47.25	
C3D	46.25	46.25	47.25	46.25	
C4D	43.25	43.25	44.25	43.25	
C5D	39.25	39.25	40.25	39.25	
C3M	50.25	50.25	51.25	50.25	
C4M	48.25	48.25	49.25	48.25	
C5M	44.25	44.25	45.25	44.25	
C3G	45.25	45.25	46.25	44.25	
C4G	43.25	43.25	44.25	43.25	
C5G	40.25	40.25	41.25	40.25	

Grade	Proposed price	Grade	Proposed price
X1L	54.25	X3M 45	47.25
X2L	53.25	X4M	47.25
X3L	52.25	X4M 45	44.25
X4L	50.25	X5M	44.25
X5L	47.25	X5M 45	42.25
X1F	54.25	X3G	48.25
X2F	53.25	X3G 45	45.25
X3F	52.25	X4G	45.25
X4F	49.25	X4G 45	43.25
X5F	46.25	X5G	41.25
X1D	50.25	X5G 45	39.25
X2D	48.25	N1L	38.25
X3D	47.25	N1D	37.25
X4D	45.25	N1G	36.25
X5D	41.25	N2	27.25
X3M	49.25		

[1] Only the original producer is eligible to receive advances. Tobacco graded "W" (doubtful keeping order), "No-G" (no grade), "U" (unsound), "D" (damaged), or scrap will not be accepted. The association is authorized to deduct 25 cents per hundred pounds to apply against overhead cost.

§ 1464.18 1972 crop—Kentucky-Tennessee Fire-cured tobacco, Types 22 and 23—advance schedule.[2]

[Dollars per hundred pounds, farm sales weight]

Grade	Length 47	Length 46	Length 45
A1F	72	72	72
A2F	67	67	67
A3F	59	59	59

Grade	Length 47	Length 46	Length 45	Length 44	Length 43
A1D	72	72	72		
A2D	67	67	67		
A3D	59	59	59		
B1F	63	63	63	58	
B2F	60	60	60	56	
B3F	57	57	57	54	48
B4F	53	53	53	50	43
B5F	49	49	49	46	40
B1D	62	62	62	57	
B2D	59	59	59	55	
B3D	58	58	58	54	48
B4D	52	52	52	49	42
B5D	48	48	48	44	38
B3M	53	53	53	49	44
B4M	49	49	49	45	38
B5M	44	44	44	39	34
B3VF	53	53	53	49	42
B4VF	51	51	51	48	41
B5VF	47	47	47	44	37
B3G	53	53	53	49	41
B4G	48	48	48	44	36
B5G	44	44	44	39	34
C1L	62	62	62	58	
C2L	59	59	59	56	
C3L	58	58	58	54	48
C4L	55	55	55	52	46
C5L	52	52	52	50	43
C1F	62	62	62	58	

[2] Only the original producer is eligible to receive advances. Tobacco graded "No-G" (no grade), "U" (unsound), "D" (damaged), or scrap will not be accepted. Tobacco graded "W" (doubtful keeping order) will be accepted at advance rates 20 percent below the advance rates otherwise applicable.

Grade	Length 47	Length 46	Length 45	Length 44	Length 43
C2F	59	59	59	56	----
C3F	58	58	58	55	48
C4F	55	55	55	52	45
C5F	53	53	53	49	42
C1D	63	63	63	58	----
C2D	55	55	56	52	----
C3D	52	52	52	49	43
C4D	47	47	47	45	39
C5D	46	46	46	44	37
C3M	53	53	53	50	44
C4M	49	49	49	48	42
C5M	47	47	47	45	37
C3VF	54	54	54	51	45
C4VF	51	51	51	49	43
C5VF	49	49	49	47	38
C3G	49	49	49	46	41
C4G	46	46	46	42	37
C5G	42	42	42	39	36

Grade	Proposed price	Grade	Proposed price
X1L	54	X5D	42
X2L	52	X3M	47
X3L	51	X4M	45
X4L	48	X5M	42
X5L	46	X3VF	49
X1F	53	X4VF	47
X2F	51	X5VF	44
X3F	50	X3G	47
X4F	48	X4G	43
X5F	46	X5G	40
X1D	52	N1L	42
X2D	50	N1D	38
X3D	47	N1G	37
X4D	45	N2	33

§ 1464.19 1972 crop—Dark air-cured tobacco, Types 35 and 36—advance schedule.[3]

[Dollars per hundred pounds, farm sales weight]

Grade	Length 46	Length 45	Length 44
A1F	63	63	----
A1R	63	63	----
A2F	59	59	----
A2R	59	59	----
A3F	54	54	----
A3R	54	54	----
B1F	59	59	56
B1R	58	58	56
B1D	58	58	56
B2F	55	55	54
B2R	54	54	53
B2D	54	54	53
B3F	53	53	51
B3R	51	51	50
B3D	51	51	50
B3M	50	50	49
B3G	49	49	48
B4F	50	50	49
B4R	49	49	48
B4D	50	50	49
B4M	46	46	45
B4G	46	46	45
B5F	46	46	45
B5R	46	46	45
B5D	45	45	44
B5M	42	42	41
B5G	42	42	41
C1L	59	59	58
C1F	59	59	58
C1R	57	57	56
C2L	58	58	57
C2F	57	57	56
C2R	55	55	54
C3L	56	56	55
C3F	55	55	53
C3R	52	52	50
C3M	50	50	49
C3G	51	51	49
C4L	52	52	51
C4F	52	52	51
C4R	47	47	46
C4M	44	44	43
C4G	45	45	44
C5L	45	45	43
C5F	46	46	45
C5R	42	42	41
C5M	41	41	40
C5G	41	41	40

Grade	Proposed Loan Rate Prices	Grade	Proposed Loan Rate Prices
T3F	46	X3R	48
T3R	46	X3D	49
T3D	46	X3M	46
T3M	45	X3G	45
T3G	44	X4L	50
T4F	41	X4F	49
T4R	42	X4R	44
T4D	42	X4D	44
T4M	40	X4M	43
T4G	39	X4G	41
T5F	34	X5L	47
T5R	34	X5F	47
T5D	34	X5R	42
T5M	33	X5D	42
T5G	33	X5M	40
XIL	55	X5G	36
X1F	55	N1L	41
X1R	55	N2L	35
X2L	53	N1R	35
X2F	53	N2R	32
X2R	52	N1G	33
X3L	52	N2G	33
X3F	50	N2G	31

[3] Only the original producer is eligible to receive advances. Tobacco graded "No-G" (no grade), "U" (unsound), "D" (damaged), or scrap will not be accepted. Tobacco graded "W" (doubtful keeping order) will be accepted at advance rates 20 percent below the advance rates otherwise applicable. Grades marked with the special factor "BH" shall have an advance rate 20 percent below the advance rate otherwise applicable without such special factor. Type 35 grades marked with the special factor "BL" shall have an advance rate 20 percent below the advance rate otherwise applicable without such special factor.

§ 1464.20 1972 crop—Virginia Sun-cured tobacco, Type 37—advance schedule.[4]

[Dollars per hundred pounds, farm sales weight]

Grade	Length 46	Length 45	Length 44
A1F	67.25	67.25	65.25
A2F	63.25	63.25	60.25
A3F	60.25	60.25	57.25
A1R	67.25	67.25	64.25
A2R	63.25	63.25	60.25
A3R	60.25	60.25	57.25
B1F	66.25	67.25	59.25
B2F	63.25	65.25	60.25
B3F	56.25	59.25	56.25
B4F	50.25	54.25	52.25
B5F	45.25	46.25	45.25
B1R	66.25	67.25	60.25
B2R	63.25	65.25	60.25
B3R	57.25	59.25	56.25
B4R	50.25	53.25	51.25
B5R	47.25	48.25	45.25
B1D	66.25	66.25	61.25
B2D	65.25	65.25	60.25
B3D	55.25	56.25	54.25
B4D	49.25	50.25	49.25
B5D	44.25	46.25	44.25
B3M	49.25	51.25	48.25
B4M	47.25	50.25	47.25
B5M	42.25	45.25	44.25
B3G	48.25	52.25	49.25
B4G	45.25	48.25	47.25
B5G	43.25	44.25	42.25
C1L	65.25	66.25	58.25
C2L	59.25	60.25	55.25
C3L	57.25	58.25	55.25
C4L	49.25	52.25	50.25
C5L	43.25	44.25	43.25
C1F	65.25	66.25	58.25
C2F	59.25	60.25	57.25
C3F	55.25	57.25	55.25
C4F	49.25	53.25	50.25
C5F	42.25	45.25	44.25
C1R	62.25	62.25	56.25
C2R	56.25	56.25	52.25
C3R	49.25	50.25	48.25
C4R	44.25	46.25	44.25
C5R	39.25	40.25	39.25
C3M	45.25	48.25	47.25
C4M	42.25	46.25	43.25
C5M	40.25	43.25	41.25
C3G	40.25	43.25	40.25
C4G	38.25	42.25	40.25
C5G	33.25	35.25	34.25

Grade	Loan rate	Grade	Loan rate
T3F	46.25	X4F	46.25
T4F	44.25	X5F	42.25
T5F	38.25	X1R	51.25
T3R	46.25	X2R	48.25
T4R	44.25	X3R	44.25
T5R	39.25	X4R	42.25
T3D	44.25	X5R	35.25
T4D	42.25	X3D	40.25
T5D	36.25	X4D	38.25
T3M	43.25	X5D	32.25
T4M	41.25	X3M	46.25
T5M	35.25	X4M	43.25
T3G	46.25	X5M	41.25
T4G	44.25	X3G	44.25
T5G	38.25	X4G	41.25
X1L	53.25	X5G	37.25
X2L	51.25	N1L	28.25
X3L	48.25	N2L	20.25
X4L	46.25	N1R	30.25
X5L	41.25	N2R	22.25
X1F	53.25	N1G	30.25
X2F	52.25	N2G	22.25
X3F	49.25		

[4] Only the original producer is eligible to receive advances. Tobacco graded "W" (doubtful keeping order), "No-G" (no grade), "U" (unsound), "D" (damaged), or scrap will not be accepted. The association is authorized to deduct 25 cents per hundred pounds to apply against overhead cost.

All written submissions received pursuant to this notice will be available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

Effective date: Date of filing with the Office of the Federal Register.

Signed at Washington, D.C. on October 4, 1972.

KENNETH E. FRICK,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc.72-17535 Filed 10-16-72;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 72-SW-66]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to designate a 700-foot transition area at Orange Grove, Tex.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, TX 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Tex. An informal docket will also be available for examination at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In § 71.181 (37 F.R. 2143), the following transition area is added:

ORANGE GROVE, TEX.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Orange Grove NALF (latitude 27°-54'03" N., longitude 98°03'05" W.), within 2.5 miles each side of the NAS Kingsville TACAN 332° radial extending from the 5-mile-radius area to 21 miles northwest of the NAS Kingsville TACAN and within 5 miles each side of the NAS Kingsville TACAN 31-mile arc extending from the 5-mile-radius area to the NAS Kingsville TACAN 320° radial, excluding that portion that lies within the Alice, Tex., control zone.

The transition area will provide controlled airspace where aircraft will reach 1,200 feet above the surface and will provide controlled airspace for aircraft executing TACAN instrument approach procedures.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Fort Worth, Tex., on October 4, 1972.

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

[FR Doc.72-17638 Filed 10-16-72;8:47 am]

[14 CFR Part 71]

[Airspace Docket No. 72-SO-89]

FEDERAL AIRWAY

Proposed Revocation

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would revoke V-437 east alternate between Charleston, S.C., and Florence, S.C.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Post Office Box 20636, Atlanta, GA 30320.

All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20591. An informal docket also will be available for examination at the Office of the Regional Air Traffic Division Chief.

The last three IFR peak-day traffic counts for V-437E between Charleston and Florence indicated four movements for fiscal year 1970, zero movements for fiscal year 1971, and three movements for fiscal year 1972. Such limited use does not justify retention of this segment of the airway. In addition, revocation would provide additional off-airway airspace where military aerobatic training could be accommodated without derogation of service to other users.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and section 6(c), of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on October 10, 1972.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72-17639 Filed 10-16-72;8:47 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release 34-9775]

CUSTOMERS' SECURITIES AND FUNDS

Obligations of Broker-Dealers To Maintain Physical Possession or Control and Certain Reserves

Correction

In F.R. Doc. 72-16503 appearing at page 20260 of the issue for Thursday, September 28, 1972, the first two words in the heading of § 240.15c3-3, reading "Custom reprotection", should read "Customer protection".

Notices

DEPARTMENT OF STATE

Agency for International Development

DEPUTY ASSISTANT ADMINISTRATOR FOR SUPPORTING ASSISTANCE

Redelegation of Authority

Pursuant to the authority delegated to me as Assistant Administrator for Supporting Assistance, I hereby delegate to the Deputy Assistant Administrator for Supporting Assistance, authority to act as my alter ego, to be responsible, under my direction and concurrently with me, for all aspects of the activities of the Bureau for Supporting Assistance. In accordance with this delegation, said Deputy Assistant Administrator is authorized to represent me, and to exercise my authority, with respect to all functions now or hereafter conferred upon me, in accordance with their terms, by AID delegations of authorities, regulations, manual orders, directives, notices, or other documents, by law or by any competent authority.

The redelegation of authority to the Deputy Coordinator, Bureau for Supporting Assistance, dated September 23, 1971 (36 F.R. 19518), is superseded.

This redelegation of authority is effective immediately.

Dated: October 4, 1972.

ROBERT H. NOOTER,
Assistant Administrator for Supporting Assistance.

[FR Doc.72-17661 Filed 10-16-72;8:49 am]

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T.D. 72-287]

FOREIGN CURRENCIES

Rates of Exchange for Ceylon Rupee

OCTOBER 2, 1972.

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372 (c)), has certified the following rates of exchange which vary by 5 percent or more from the quarterly rate published in Treasury Decision 72-194 for the Ceylon rupee. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following daily rates:

Ceylon rupee:	
September 25, 1972	$0.1550
September 26, 1972	.1555
September 27, 1972	.1560
September 28, 1972	.1560
September 29, 1972	.1560

[SEAL] R. N. MARRA,
Acting Assistant Commissioner, Office of Operations.

[FR Doc.72-17645 Filed 10-16-72;8:47 am]

DEPARTMENT OF THE INTERIOR

Bonneville Power Administration

DRAFT ENVIRONMENTAL STATEMENT

Public Meeting; Change of Date

The Bonneville Power Administration hereby gives notice of the correction of a meeting date in its series of public meetings to be held to discuss BPA's Fiscal Year 1974 Draft Environmental Statement. In the notice published in the FEDERAL REGISTER, vol. 37, No. 196, page 21360, on October 7, 1972, the meeting shown as scheduled at the Aberdeen Public Library, Aberdeen, Wash., will be held on November 15, 1972, 7:30 p.m., not November 14, as the previous notice indicated. There are no other changes in the meeting dates listed in the earlier FEDERAL REGISTER notice.

Date: October 10, 1972.

H. R. RICHMOND,
Administrator.

[FR Doc.72-17692 Filed 10-13-72;12:35 pm]

National Park Service

HUBBELL TRADING POST NATIONAL HISTORIC SITE, ARIZ.

Establishment

Under the Act of August 28, 1965 (79 Stat. 584; 16 U.S.C. 461 note), the Secretary of the Interior was authorized to acquire the site and remaining structures of the Hubbell Trading Post at Ganado, Ariz., along with contents of cultural and historical value, and such additional land and interests in land as in his discretion are needed to preserve and protect the post and its environs for the benefit and enjoyment of the public; but the total area so acquired could not exceed 160 acres.

Pursuant to section 2 of the aforesaid act, notice is given that within the prescribed acreage limitation, sufficient land, structures, and other property have been acquired by the United States to provide for the purposes stated above and, therefore, establishment of the Hubbell Trading Post National Historic Site is hereby declared.

Dated: October 10, 1972.

GEORGE B. HARTZOG, Jr.,
Director, National Park Service.

[FR Doc.72-17633 Filed 10-16-72;8:47 am]

Office of the Secretary

LINCOLN HOME NATIONAL HISTORIC SITE, ILLINOIS

Establishment

In order to preserve and interpret the home of Abraham Lincoln in Springfield, Ill., for the benefit of present and future generations, the Act of August 18, 1971 (85 Stat. 347; 16 U.S.C. 461, note), authorized the acquisition of certain property deemed necessary for establishment and administration as the Lincoln Home National Historic Site within an area generally depicted on the map entitled "Boundary Map, Lincoln Home National Historic Site", numbered LIHO-20,000 and dated April 1970. The map is available for inspection in the administrative office of the Lincoln Home National Historic Site and in the offices of the National Park Service, Department of the Interior, Washington, D.C.

Notice is given that the home of Abraham Lincoln in Springfield, Ill., and lands necessary for the establishment of this area have been acquired to implement the purposes of the act and, therefore, the Lincoln Home National Historic Site is hereby declared established.

Dated: October 9, 1972.

ROGERS C. B. MORTON,
Secretary of the Interior.

[FR Doc.72-17634 Filed 10-16-72;8:47 am]

DEPARTMENT OF COMMERCE

Maritime Administration

OPERATING-DIFFERENTIAL SUBSIDY FOR BULK CARRIAGE OF GRAIN BETWEEN THE UNITED STATES AND THE UNION OF SOVIET SOCIALIST REPUBLICS

Amended Notice of Intent

In F.R. Doc. 72-16033, appearing in the FEDERAL REGISTER issue of September 19, 1972 (37 F.R. 19157), notice was given of the intent of the Maritime Administration/Maritime Subsidy Board to provide operating-differential subsidy to American Flag Bulk Cargo Vessels for the carriage of grain from the United States

to the Union of Soviet Socialist Republics.

Said notice is hereby amended to read as follows:

1. Under the provisions of section 603(b) Merchant Marine Act, 1936, as amended, subsidy will be paid to make the cost of operating U.S.-flag bulk vessels competitive with the cost of operating foreign flag bulk vessels participating in such trade.

2. Because of the recent consummation of the grain sale agreement with the Union of Soviet Socialist Republics, it is requested that applications for participation in this program be received by the Secretary, Maritime Subsidy Board as soon as practicable.

3. Any person, firm or corporation having any interest in this program may request further information and application forms from the Secretary, Maritime Subsidy Board, Maritime Administration, Room 3099B, Department of Commerce Building, 14th and E Streets NW., Washington, D.C. 20235.

Dated: October 16, 1972.

By order of the Maritime Subsidy Board, Maritime Administration.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.72-17780 Filed 10-16-72;10:53 am]

National Oceanic and Atmospheric Administration

MARINE FISHERIES ADVISORY COMMITTEE

Notice of Meeting

Pursuant to section 13 of Executive Order 11671, notice is hereby given of a meeting of the Marine Fisheries Advisory Committee (MAFAC) on October 24, 25, 26, 1972, in Room 6802, U.S. Department of Commerce, 14th Street NW., between E Street and Constitution Avenue NW., Washington, D.C. 20230.

MAFAC was chartered on February 17, 1971, to advise the Secretary of Commerce on matters pertinent to the Department's responsibilities for fisheries resources, and to facilitate cooperation between public and private interests in these matters.

MAFAC is composed of 27 members, 15 selected from the commercial fishery industries, seven selected from recreational fisheries interests, three selected from the academic community, one representative of consumer interests, and one representative of State government. The Committee Chairman is Dr. Robert M. White, Administrator, National Oceanic and Atmospheric Administration.

All sessions of the MAFAC meeting will be open to interested members of the public. The agenda for the meeting is as follows:

AGENDA

OCTOBER 24, 1972

10 a.m.	NOAA Marine Advisory Service.
2 p.m.	State-Federal Fisheries Management Program—Principles of Fishery Management.

OCTOBER 25, 1927

8:30 a.m.	Introductions and Announcements.
8:45 a.m.	Subcommittee Reports. NOAA Marine Advisory Services. State-Federal Fisheries Management Program—Principles of Fishery Management.
9:45 a.m.	Management Plan for American Lobsters.
10:15 a.m.	NACOA Report.
11:15 a.m.	Review of UN Conference on the Human Environment.
1:15 p.m.	New Coast Guard Policies on Pollution and Safety Violations.
2 p.m.	Environmental Impact Statements.
2:30 p.m.	Great Lakes Fisheries Problems.
3:30 p.m.	Discussion of Agenda Items Suggested by Committee Members. Feasibility Study of Dogfish Shark Control in Puget Sound. California Fisheries Problems.
4:30 p.m.	Motion Picture on Atlantic Salmon.

OCTOBER 26, 1972

9:30 a.m.	Progress Report on Law of the Sea.
10:15 a.m.	Review of Pending Legislation Relating to Fisheries.
11:15 a.m.	Natural Resources Disasters, NMFS Assistance Programs.
1:30 p.m.	NMFS Marketing Programs.
2:15 p.m.	NMFS Financial Assistance Programs.

The meeting room has facilities to accommodate approximately 20 members of the press and the public.

All questions or requests for information should be addressed to:

Mr. John L. Baxter, Executive Secretary, Marine Fisheries Advisory Committee, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Washington, D.C. 20235, Telephone: 202—343-2228.

T. P. GLEITER,
Assistant Administrator for Administration.

OCTOBER 10, 1972.

[FR Doc.72-17672 Filed 10-16-72;8:50 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. FDC-D-494; NADA 36-479V]

BACITRACIN METHYLENE DISALICYLATE IN DRY FEED FOR CATTLE

Reinstatement of Approval of New Animal Drug Application

An order published in the FEDERAL REGISTER of August 4, 1972 (37 F.R. 15747), included the findings and conclusions of the Commissioner of Food and Drugs regarding withdrawal of approval of new animal drug applications for liquid and dry premixes containing diethylstilbestrol. It has been brought to the attention of the Comissioner that an application listed for S. B. Penick Co., 100 Church Street, New York, NY 10007, NADA No. 36-479V, provides for the administration of bacitracin methylene disalicylate to cattle in dry feed. The application includes an approved supplement for its use in combination with diethylstilbestrol.

The order is hereby amended to provide that the withdrawal of approval for this application only applies with respect to the supplement to that application providing for bacitracin methylene disalicylate when used in combination with diethylstilbestrol.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-51; 21 U.S.C. 360b) and under authority delegated to the Commissioner (21 CFR 2.120), the order cited above is deemed as amended on the date of publication of this document.

Dated: October 10, 1972.

ROBERT C. BRANDENBURG,
Acting Associated Commissioner for Compliance.

[FR Doc.72-17652 Filed 10-16-72;8:48 am]

[Docket No. FDC-D-515]

E. R. SQUIBB & SONS, INC., AND RICHLYN LABORATORIES, INC.

Certain Drug Products Containing Potassium Penicillin G; Notice of Opportunity for Hearing

In an announcement in the FEDERAL REGISTER of August 19, 1970 (35 F.R. 13222, DESI 0060NV), the Commissioner of Food and Drugs announced the conclusions of the Food and Drug Administration following evaluation of reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on Penicillin Powder Veterinary, NADA (new animal drug application) No. 65-294 and CO-PEN, Penicillin Powder; marketed by E. R. Squibb & Sons, Inc., Georges Road, New Brunswick, N.J. 08903 (formerly The Gland-O-Lac Co.) and Oral Buffered Penicillin Crystalline G Potassium U.S.P. and Penicillin G. U.S.P.; marketed by Richlyn Laboratories, Inc., Castor Avenue at Kensington Avenue, Philadelphia, Pa. 19124. The announcement invited the holders of said new animal drug applications and any other interested persons to submit pertinent data on the drugs' effectiveness.

Adequate data were not received in response to the announcement and available information fails to provide substantial evidence that these drugs will have the effect they purport to have when administered in accordance with the conditions of use prescribed, recommended, or suggested in their labeling.

Therefore, notice is given to E. R. Squibb & Sons, Inc. and Richlyn Laboratories, Inc., and to any other interested persons who may be adversely affected that the Commissioner proposes to issue an order under the provisions of section 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b), withdrawing

approval of the new animal drug applications for the above antibiotic-containing drugs, including all amendments and supplements thereto.

In accordance with the provisions of section 512 of the act (21 U.S.C. 360b), the Commissioner hereby gives the applicants and any other interested persons who would be adversely affected by an order withdrawing such approvals an opportunity for a hearing at which time such persons may produce evidence and arguments to show why approval of the NADA's for the listed drugs should not be withdrawn.

Within 30 days after publication hereof in the FEDERAL REGISTER, such persons are required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Office of the General Counsel, Room 6–88, 5600 Fishers Lane, Rockville, MD 20852, a written appearance electing whether:

1. To avail themselves of the opportunity for a hearing; or

2. Not to avail themselves of the opportunity for a hearing. If such persons elect not to avail themselves of the opportunity for a hearing, the Commissioner, without further notice, will enter a final order withdrawing approval of the new animal drug applications.

Failure of such persons to file a written appearance of election within said 30 days will be construed as an election by such persons not to avail themselves of the opportunity for a hearing.

The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process which the Commissioner finds is entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

If such persons elect to avail themselves of the opportunity for a hearing, they must file a written appearance requesting the hearing and giving the reasons why approval of the new animal drug applications should not be withdrawn together with a well-organized full-factual analysis of the clinical and other investigational data they are prepared to prove in support of their opposition to the grounds for this notice. A request for a hearing may not rest upon mere allegations or denials but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. When it clearly appears from the data in the applications and from the reasons and factual analysis in the request for a hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the applications, the Commissioner will enter an order stating his findings and conclusions on such data. If a hearing is requested and is justified by the response to this notice, the issues will be defined, a hearing examiner will be named, and he shall issue a written notice of the time and place at which the hearing will commence.

Response to this notice will be available in the Office of the Hearing Clerk (address given above) during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343–51; 21 U.S.C. 360b) and under the authority delegated to the Commissioner (21 CFR 2.120).

Dated: October 5, 1972.

ROBERT C. BRANDENBURG,
Acting Associate Commissioner for Compliance.

[FR Doc.72–17651 Filed 10–16–72;8:48 am]

SOCIAL SECURITY ADMINISTRATION

Notice of Health Insurance Benefits Advisory Council Meeting

Notice is hereby given, pursuant to Executive Order No. 11671, published in the FEDERAL REGISTER of June 7, 1972 (37 F.R. 11307), that the Health Insurance Benefits Advisory Council, established pursuant to section 1867 of the Social Security Act, as amended, which advises the Secretary of the Department of Health, Education, and Welfare on Medicare matters, will meet on Friday, October 27, 1972, and Saturday, October 28, 1972, at 9 a.m. in Room 5169, Department of Health, Education, and Welfare, North Building, Third and C Streets SW., Washington, DC. The various committees will meet Thursday evening, October 26, and will report to the Council on Saturday. The meetings are open to the public. The Council will continue the discussion of its annual report and consider other matters relating to the Medicare program.

Further information on the Council may be obtained from Mr. Max Perlman, Executive Secretary, Health Insurance Benefits Advisory Council, Room 585 East Building, Social Security Administration, 6401 Security Boulevard, Baltimore, MD. 21235, telephone 301—594–9134. Members of the public planning to attend should send written notice of intent to the Executive Secretary.

Dated: October 6, 1972.

MAX PERLMAN,
Executive Secretary, Health Insurance Benefits Advisory Council.

[FR Doc.72–17660 Filed 10–16–72;8:49 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 72 205 PH]

PROPOSED BRIDGE ACROSS EWING NARROWS, HARPSWELL, MAINE

Notice of Public Hearing

Notice is hereby given that the Commandant has authorized a public hearing to be held by the Commander, First Coast Guard District at 7 p.m., November 21, 1972, in the Community Center, Cundys Harbor, Maine. The purpose of the hearing is to consider the application from the Maine State Highway Commission for a permit to construct a fixed highway bridge over Ewing Narrows, Harpswell, Maine.

The plans submitted by the applicant are for a three-span, fixed highway bridge with a minimum vertical clearance of 25 feet above mean high tide and a horizontal clearance in the navigation span of 230 feet, between faces of the substructure. The minimum vertical clearance will be 30 above mean high tide in the midportion of 100 feet in width to be marked for navigation.

All interested persons may present data, views, and comments orally or in writing at the public hearing concerning the impact of the proposed bridge on present and prospective navigation on the waterway and the environment. The environmental issues may include but are not limited to the impact of the bridge on recreational areas, wildlife and waterfowl refuges, public parks, and historical sites.

The hearing will be informal. A Coast Guard representative, who will preside at the hearing, will make a brief opening statement describing the proposed bridge and announce the procedures to be followed at the hearing.

Each person who wishes to make an oral statement should notify the Commander (oan), First Coast Guard District, J. F. Kennedy Federal Building, Government Center, Boston, Mass. 02203, by November 15, 1972. Such notification should include the approximate time required to make the presentation. A transcript will be made of the hearing and may be purchased by the public.

Interested persons who are unable to attend this hearing may also participate in the consideration of this bridge permit application by submitting their comments in writing on or before December 6, 1972, to the Commander (oan), First Coast Guard District. Each comment should state the reasons for any objections or proposed changes to the plans and the name and address of the person or organization submitting the comment. Copies of all written communications will be available for examination by interested persons at the office of the Commander (oan), First Coast Guard District.

All comments received will be considered before final action is taken on the proposed bridge permit application. After the time set for the submission of comments, the Commander, First Coast Guard District, will forward the record, including all written comments and his recommendations to the Commandant, U.S. Coast Guard, Washington, D.C. 20590. The Commandant will make the final determination on the bridge permit.

(Sec. 502, 60 Stat. 847, as amended, secs. 4(f), 6(g)(6)(c), 80 Stat. 933 as amended;

33 U.S.C. 525, 49 U.S.C. 1653(f), 1655(g)(C); 40 CFR 1.46 (c)(10))

Dated: October 12, 1972.

J. D. McCann,
Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc.72-17673 Filed 10-16-72;8:50 am]

ATOMIC ENERGY COMMISSION

CRITERIA FOR DETERMINING ENFORCEMENT ACTION

Notice of Issuance of Enforcement Criteria

The Atomic Energy Commission has issued criteria for determining enforcement actions to be taken with respect to future violations of the Commission's rules and license conditions relating to health and safety, in accordance with sections 161, 186, and 234 of the Atomic Energy Act of 1954, as amended, and Subpart B of the Commission's rules of practice, 10 CFR Part 2. This document is a formalization of enforcement procedures employed by the Commission. Guides and standards are being developed rapidly and should materially aid and facilitate safe operations through the implementation of adequate Quality Assurance programs by licensees of the Commission.

The enforcement actions available to the Commission in the exercise of its regulatory responsibilities include administrative actions in the form of written notices of violation, civil monetary penalties, and Orders to "cease and desist" or for modification, suspension, or revocation of a license. Fitting the spectrum of enforcement actions to the spectrum of violations is not complex for extreme cases; i.e., a citation for a minor violation of posting or labeling requirements at one end of the spectrum, and an order to eliminate an immediate threat to the health and safety of employees or the public at the other end of the spectrum. In some cases, however, judgment must be exercised in selecting the enforcement action most appropriate for the situation. The criteria include a discussion of factors to be considered when making such judgments and should provide a reasonable degree of uniformity in the enforcement process.

A copy of the criteria is available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC. Copies of the criteria may be obtained by writing the Director of Regulatory Operations, U.S. Atomic Energy Commission, Washington, D.C. 20545.

(5 U.S.C. 552(a))

Dated at Bethesda, Md., this 4th day of October 1972.

For the Atomic Energy Commission.

F. E. Kruesi,
Director of Regulatory Operations.

[FR Doc.72-17653 Filed 10-16-72;8:49 am]

CIVIL AERONAUTICS BOARD

[Docket 24387]

CLUB INTERNATIONAL ET AL.

Notice of Postponement of Hearing Regarding Enforcement Proceeding

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the hearing in the above-entitled proceeding now scheduled to commence on October 24, 1972 (37 F.R. 17983), is hereby postponed until further notice.

Dated at Washington, D.C., October 12, 1972.

[SEAL] Louis W. Sornson,
Administrative Law Judge.

[FR Doc.72-17686 Filed 10-16-72;8:51 am]

FEDERAL POWER COMMISSION

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON FUELS

Order Designating New Member

October 11, 1972.

The Federal Power Commission by order issued September 29, 1972, established the Technical Advisory Committee on Fuels of the National Power Survey.

2. Membership: A new member of the Technical Advisory Committee on Fuels, as selected by the Chairman of the Commission with the approval of the Commission, is as follows:

Mr. Charles E. Wier, Head, State Geological Survey, Bloomington, Ind.

By the Commission.

[SEAL] Kenneth F. Plumb,
Secretary.

[FR Doc.72-17681 Filed 10-16-72;8:50 am]

[Docket No. CI73-255]

CLINTON OIL CO.

Notice of Application

October 13, 1972.

Take notice that on October 10, 1972, Clinton Oil Co. (Applicant), 217 North Water Street, Wichita, KS 67202, filed in Docket No. CI73-255 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Natural Gas Pipeline Company of America from the Fulton Beach Field, Aransas County, Tex., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it commenced the sale of natural gas on October 5, 1972, within the contemplation of § 157.29 of the rgulations under the Natural Gas Act (18 CFR 157.29) and that it proposes to continue said sale for 22 months from the end of the 60-day emergency period within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Applicant proposes to sell between 3,000 and 6,000 Mcf of gas per day at 35 cents per Mcf at 14.65 p.s.i.a. Applicant has reserved the right to process the gas in the Hunt Industries Zoller Processing Plant in Refugio County, Tex. The contract provides for a transportation charge of 0.02 cent per Mcf per mile for gas lost as a result of processing. This charge is estimated at 0.0336 cent per Mcf.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before October 24, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 72-17695 Filed 10-16-72;8:51 am]

[Project No. 178]

PACIFIC GAS AND ELECTRIC CO.

Notice of Application for New Major License

October 11, 1972.

Public notice is hereby given that application has been filed under Section 15 of the Federal Power Act (16 U.S.C. 791a-825r) by Pacific Gas and Electric Co. (Correspondence to: Mr. J. F. Roberts, Jr., Vice President-Rates and Valuation, Pacific Gas and Electric Co., 77

Beale Street, San Francisco, CA 94106) for a new major license for Project No. 178, known as Kern Canyon Project, located on the Kern River near Bakersfield, Calif.

The installed capacity of the Kern Canyon Project is 8,480 kw. (12,000 hp.). The project consists of: (1) A diversion dam impounding a reservoir having a storage capacity of 27 acre-feet at a maximum water surface elevation of 948 feet (USGS; (2) a concrete diversion dam with a crest length of 150 feet and a maximum height of 23 feet containing trippable and removable flashboards with permanent stoplogs and 4 radial gates; (3) a 8,435-foot long horseshoe shaped tunnel from the intake; (4) a 574-foot long steel penstock varying in diameter from 96 to 90 inches; (5) a concrete powerhouse containing one 8,480 kw. hydroelectric generating unit; (6) an outdoor substation containing one 11/70 kv. transformer; (7) an 8.3-mile long 70 kv. transmission line; and (8) all other facilities and interests appurtenant to the operation of the project.

According to the application: (1) The estimated net investment in the project as of December 31, 1971, was $1,457,362 which is less than applicant's estimate of fair value; (2) the amount of taxes paid annually to county, State, and Federal governments is $123,858; (3) applicant did not provide an estimate with regard to severance damages in the event of take over by the United States.

Because of safety considerations and the severe physical limitations imposed by the project's location (a steep, rugged canyon with almost vertical walls), there are no recreation facilities constructed or planned for this project area.

Any person desiring to be heard or to make any protest with reference to said application should, on or before December 20, 1972, file with the Federal Power Commission, Washington, D.C. 20426 petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to the proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-17679 Filed 10-16-72;8:50 am]

FEDERAL RESERVE SYSTEM

FLORIDA BANCORP, INC.

Order Approving Acquisition of Bank

Florida Bancorp, Inc., Pompano Beach, Fla., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 98.6 percent of the voting shares of Northwestern Bank of Broward County, Margate, Fla. (Margate Bank), a proposed new bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls two banks with aggregate deposits of $58.4 million, representing 0.4 percent of the total deposits in commercial banks in Florida and is the 27th largest banking organization and bank holding company in the State. (All banking data are as of December 31, 1971, adjusted to reflect holding company formations and acquisitions approved by the Board through August 31, 1972.) Since Margate Bank is a proposed new bank no existing competition would be eliminated nor would the concentration of banking resources be affected.

The proposed site of Margate Bank is west of Pompano Beach in a market area comprised of the Fort Lauderdale, Pompano Beach, and Boca Raton sections of Broward and Palm Beach Counties. There are 37 banks operating in the market. Applicant, the smallest of seven bank holding companies represented in the market, holds 4.4 percent of total market deposits, whereas the two largest holding companies hold 42.3 percent. Applicant's present subsidiaries are situated 6 and 8 miles, respectively, from the proposed site of Margate Bank. They compete locally with four subsidiaries of a holding company which controls 65.61 percent of the total deposits of the Pompano Beach area. It appears that the competing banks would not be adversely affected by consummation of the proposed acquisition nor would any significant amount of potential competition be foreclosed thereby. Competitive considerations are consistent with approval of the application.

The financial and managerial resources of applicant and its two subsidiary banks are considered to be satisfactory, and prospects for the group appear favorable. The proposed new bank has no financial or operating history, however prospects for Margate Bank as a member of applicant's system appear favorable. Banking factors are consistent with approval of the application. The major banking needs of the area are being adequately served at the present time, and no new services would be provided area residents by Margate Bank. However, the residents would benefit from the introduction of an alternative source of banking services to the area. Considerations relating to the convenience and needs of the communities to be served are consistent with approval of the application. It is the Board's judgment that consummation of the proposed acquisition would be in the public interest and the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after that date, and (c) Northwestern Bank of Broward County, Margate, Fla., shall be opened for business not later than 6 months after the effective date of this order. Each of the periods described in (b) and (c) may be 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] effective October 10, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-17665 Filed 10-16-72;8:49 am]

SOUTHEAST BANKING CORP.

Order Approving Acquisition of Bank

Southeast Banking Corp., Miami, Fla., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of American National Bank and Trust Co. of South Pasadena, South Pasadena, Fla. (American Bank).

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls 17 banks with aggregate deposits of $1.24 billion, representing 7.64 percent of the total commercial bank deposits held by Florida banks, and is the largest banking organization in the State.[2] The acquisition of American Bank would increase applicant's share of Florida deposits by 0.24 percentage points, and would not substantially increase the concentration of banking resources on a State or local level.

American Bank controls 4.06 percent of commercial deposits in the South Pinellas banking market and is the 10th largest of 25 banks in this market. At the present time there are six multibank holding companies represented in the

[1] Voting for this action: Chairman Burns and Governors Mitchell, Sheehan, and Bucher. Present and abstaining: Governor Robertson. Absent and not voting: Governors Daane and Brimmer.

[2] All banking data are as of December 31, 1971, except applicant's acquisitions approved by the Board are as of September 21, 1972, and all other formations and acquisitions approved by the Board are as of August 31, 1972.

market, controlling 54.27 percent of area deposits. It appears that consummation of the proposal would not adversely affect any of these area banks.

The proposed acquisition would represent applicant's first entry into the South Pinellas market. Its closest subsidiary offices are located 30 miles to the south and to the northwest, respectively, from American Bank. Consummation of this proposal would not eliminate significant present competition between these offices nor would meaningful potential competition be removed considering the distances involved, the presence of intervening banks, and restrictions on branching imposed by State law. Competitive considerations are consistent with approval of the application.

The financial and managerial resources of applicant and its subsidiaries are deemed to be generally satisfactory and prospects for the group appear favorable. Applicant proposes to inject equity capital into American Bank which will significantly improve its capital position, and will also supplement present management. Banking factors are consistent with and lend support toward approval of the application in view of the proposed improvements and support to be derived by American Bank from affiliation with applicant. Although the major banking needs of the area are adequately served at the present time, the proposed affiliation will improve American Bank's ability to compete with larger area banks through its expanded and improved services and larger lending capabilities. Considerations relating to the convenience and needs of the communities to be served are consistent with 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.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after the effective 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,[2] effective October 10, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-17664 Filed 10-16-72;8:49 am]

TEXAS COMMERCE BANCSHARES, INC.

Order Approving Acquisition of Bank

Texas Commerce Bancshares, Inc., Houston, Tex., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares (less directors' qualifying shares) of the successor by merger to San Angelo National Bank of San Angelo, San Angelo, Tex. (Bank). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls two banks located in the Houston area with aggregate deposits of $1.2 billion, representing 3.9 percent of total deposits of commercial banks in the State. Applicant, the fourth largest banking organization in Texas and the second largest in the Houston banking market, controls approximately 16.5 percent of total commercial bank deposits in the Houston area. (All banking data are as of December 31, 1971, and reflect bank holding company acquisitions and formations approved through June 30, 1972.) In addition to its two subsidiary banks, applicant holds, through a subsidiary, 24.9 percent of the outstanding voting shares of Airline Bank and Reagan State Bank of Houston.[1] Applicant's subsidiary also holds between 20 and 24 percent of each of three other banks in the Houston area. These five banks hold aggregate deposits of $168.7 million representing 2.4 percent of total deposits of commercial banks in the Houston area. Upon consummation of the acquisition of Bank, applicant's share of commercial bank deposits in the State would increase by 0.2 percentage points and its ranking among banking organizations in the State would be unchanged. Consummation of the proposal herein would constitute applicant's initial entry into the San Angelo banking market.

Bank ($70 million of deposits) operates one banking office located in downtown San Angelo and is the largest of five banks operating in that market largely by virtue of its correspondent bank and public deposits which total approximately $20 million. The Central National Bank of San Angelo ($63.2 million of deposits) and The First National Bank of San Angelo ($38 million of deposits), the second and third largest banks in Bank's market, control respectively 33.4 and 20 percent of total deposits of commercial banks in the area. Bank ranks second in the market on the basis of total IPC deposits with 33.5 percent of the total, compared with 33.8 percent for The Central National Bank of San Angelo. If the IPC deposits of The First National Bank of San Angelo are combined with those of its affiliate, West Side National Bank of San Angelo, First National's IPC deposit total represents 27.4 percent of the market total. Thus, size disparity among the top banks is not so wide as to enable Bank to dominate the San Angelo banking market. Bank is affiliated through common share ownership with three other banks located in the west Texas area.[3] Although two of these banks have been under common ownership along with Bank since 1961, the record indicates that they have not been operated cooperatively as a group. The common majority shareholders have not taken an active part in the management of these banks and have stated that they have no intention of doing so in the future. Nor do the facts of record evidence that this group of banks possesses either the financial or managerial resources to form a regional holding company.

Applicant's two present subsidiary banks are located in Houston, Tex., more than 360 miles southeast of Bank. It appears that no meaningful competition exists between Bank and any of applicant's subsidiary or associated banks. Further, it appears unlikely that meaningful competition would develop in the future between Bank and any of applicant's subsidiary or associated banks in light of the facts presented, particularly the distances separating these banks and the Texas statutes prohibiting branch banking. Applicant could enter the San Angelo market de novo or conceivably through the acquisition of the only smaller bank in that market that is presently unaffiliated. However, there is no indication as to the availability for purchase of this unaffiliated bank and, in any case, its location does not lend itself for effective competition with the downtown San Angelo banks. The facts of record indicate that the prospects for entry de novo by applicant are remote. While the population per banking office ratio for the San Angelo market is above the ratio for the entire State, as noted in one of the dissenting opinions, it is below the ratio for Texas metropolitan

[2] Voting for this action: Chairman Burns and Governors Mitchell, Sheehan, and Bucher. Present and abstaining: Governor Robertson. Absent and not voting: Governors Daane and Brimmer.

[1] On August 31, 1972, the Board approved applicant's application to acquire American National Bank of Beaumont, Beaumont, Tex. ($112 million of deposits). At the same time the Board directed applicant to divest shares of Beaumont State Bank, Beaumont, Tex. ($25 million of deposits) which would be acquired indirectly through applicant's acquisition of American National Bank. On September 1, 1972, the Board approved applicant's applications to acquire the successors by merger to Airline Bank ($26.5 million of deposits) and Reagan State Bank of Houston ($65 million of deposits), both of Houston, Tex. Applicant is in the process of organizing seven de novo banks located in the Houston market.

[3] These three banks are Citizens National Bank, Lubbock, Tex. ($105.5 million of deposits); American Bank of Commerce ($43.5 million of deposits); and Permian Bank and Trust ($4.7 million of deposits), both of Odessa, Tex. Applicant has filed separate applications with the Board to acquire shares in each of these banks.

areas (the State average ratio is brought down by the relatively low population per banking office in the sparsely populated rural areas of Texas). The rate of population growth of the area is below the State average and below the rate for other Texas metropolitan area. These factors, in addition to others, including the relatively small deposit size of the San Angelo banking market,[3] indicate that the prospect for entry de novo or through acquisition of a foothold bank in the San Angelo market is unlikely. The record also indicates that the majority shareholders of Bank intend to dispose of their shares of Bank (and their other banking interests) even if the subject applications are denied. Acquisition of Bank by applicant (or some other statewide banking organization) would not appear to have an adverse effect on competition in the San Angelo market nor foreclose entry by other bank holding companies into the market. The second and third largest banks in the market each controls a significant share of market deposits and each has evidenced its ability to compete successfully with Bank.[4] Furthermore, entry by applicant may serve to stimulate competition among the three largest banks in the market, either through applicant's initiative or through the probable entry of other banking organizations through acquisition of Bank's largest competitors. To the extent this occurs, the subject proposal will have procompetitive effects on banking in the San Angelo market.

At the present time the level of concentration of banking resources in Texas is not particularly high. As of December 31, 1971, there were 108 bank holding companies in the State controlling 47.4 percent of the assets and 44.8 percent of the deposits of all commercial banks in the State. In August 1972, the 15 multibank organizations in the State controlled 34.2 percent of the deposits in the State and the four largest of these organizations controlled 24.3 percent and 21.7 percent of assets and deposits, respectively. The Board does not view the present level of either asset or deposit concentration of commercial banks in Texas to be so significantly high as to lessen the ability of Texas bank holding companies to develop and compete effectively on either a regional or statewide basis. There remain throughout the State a large number of moderately sized independent banks which are available as potential members of banking organizations now developing in the State. Banking organizations in Texas are presently unable to satisfy the capital demands of the large industrial concerns which have located in the State. Proposals involving the largest banking organizations in the State require the weighing by the Board of the impact of further concentration of banking resources with the need to increase the ability of Texas banks to satisfy the financial requirements of these large corporations. The effect upon concentration of banking resources of the present proposal is not so significant as to outweigh the probable benefits to be achieved from consummation of the proposal.

On the record before it, the Board concludes that consummation of the subject proposal would not result in a monopoly nor be in furtherance of any combination, conspiracy, or attempt to monopolize the business of banking in any area, nor have any substantially anticompetitive effects.

The financial condition and managerial resources of applicant and its subsidiary banks appear satisfactory and future prospects of all seem favorable. The financial condition and management of Bank appears satisfactory and its future prospects appear favorable and consistent with approval. The major banking needs of the residents of the San Angelo area appear to be adequately served at the present time by existing institutions. However, applicant has stated its intention to make available through Bank additional banking services such as real estate, international banking and petroleum financing services. Such services would be made available to several industrial interests operating in the San Angelo area that must now obtain larger loans and more sophisticated banking services from larger city banks outside the San Angelo market. Considerations relating to the convenience and needs of the relevant areas are consistent with and lend some weight toward approval of the application. It is the Board's judgment that consummation of the proposed transaction is in the public interest and the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above.[5] The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Dallas pursuant to delegated authority.

By order of the Board of Governors,[6] effective October 6, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-17666 Filed 10-16-72;8:49 am]

[3] The total deposits of the five banks in the San Angelo market are only $189.5 million and for IPC deposits, only $147 million. Approximately 12 percent of these deposits are deposits due to commercial banks, and hence were probably generated outside of the San Angelo market.

[4] Bank's share of deposits of commercial banks in the San Angelo market has declined from 46.4 percent to the present 36.9 percent from 1961 to 1971.

[5] Dissenting Statements of Governors Robertson and Brimmer are filed as part of the original documents. 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 Dallas.

[6] Voting for this action: Governors Mitchell, Daane, Sheehan, and Bucher. Voting against this action: Vice Chairman Robertson and Governor Brimmer. Absent and not voting: Chairman Burns.

TWIN CITY CORP.

Order Approving Formation of Bank Holding Company and Acquisition of Insurance Agency

Twin City Corp., Kansas City, Kans., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through the acquisition of 80 percent or more of the voting shares of Twin City State Bank, Kansas City, Kans. (Bank).

At the same time applicant has applied for the Board's approval under section 4(c)(8) of the Act and § 225.4 (b)(2) of the Board's Regulation Y to engage in insurance agency activities through the acquisition of the shares of Twin City Financial Services, Inc., Kansas City, Kans. (Agency).

Notice of receipt of the applications has been given in accordance with sections 3 and 4 of the Act, and the time for filing comments and views has expired. The Board has considered the applications and all comments received in the light of the facts set forth in section 3(c) of the Act (12 U.S.C. 1842(c)), and the considerations specified in section 4(c)(8) of the Act (12 U.S.C. 1843 (c)(8)) and finds that:

Applicant, a nonoperating company, was formed for the purpose of reorganizing the individual ownership of Bank and Agency into corporate form. Applicant would acquire Bank through an exchange of its stock for Bank's stock, and a cash offering. In addition, since Agency presently owns 4.69 percent of Bank's shares, applicant would acquire such shares through its acquisition of Agency.

Bank, with deposits of $18.2 million,[1] controls less than 0.5 percentage points of deposits in commercial banks in the Kansas City SMSA. Since the transaction involves only a change from individual to corporate ownership, consummation of the proposal would have no adverse effects on existing or potential competition.

The financial and managerial resources and future prospects of applicant are largely dependent on those of Bank and Agency. Bank has been operated capably since 1963, and substantially the same management would continue to operate Bank. Although applicant will incur debt in acquiring Bank, its income from Bank and Agency should provide sufficient revenue to retire debt within 10 years. Financial and managerial considerations are, therefore, consistent with approval. Considerations relating to the convenience and needs of the communities to be served are consistent with approval. It is the Board's judgment that consummation of the proposed transaction would be in the public interest and that the application to acquire Bank should be approved.

Agency operates on the premises of Bank and sells primarily credit life and

[1] Banking data are as of Dec. 31, 1971.

credit accident insurance in connection with extensions of credit by Bank. Agency also sells automobile collision insurance in connection with automobile financing, with the Bank named as the loss payee. Agency proposes to act as agent for the sale of insurance for applicant, its subsidiaries, and the protection of their respective employees. These insurance agency activities have previously been determined by regulation to be closely related to banking (12 CFR 225.4(a)(9)).

Agency began operations on April 1, 1971, to sell insurance in connection with loans made by Bank. Agency appears to adequately serve the convenience of Bank's installment loan customers. Because of the limited nature of its insurance activities, Agency does not compete significantly with general insurance agencies in the Kansas City SMSA and the proposed reorganization of Agency's operations should have no effect on competition for insurance services in that market.

There is no evidence in the record indicating that consummation of the proposal would result in any undue concentration of resources, unfair competition, conflicts of interest, unsound banking practices, or other adverse effects on the public interest. Based upon the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors that the Board is required to consider regarding the acquisition of Agency under section 4(c)(8) is favorable and that the application should be approved.

The provision of any credit, property or services by the holding company or any affiliate thereof shall not be subject to any condition which, if imposed by the bank, would constitute an unlawful tie-in arrangement under section 106 of the Bank Holding Company Act Amendments of 1970.

On the basis of the record, the applications to acquire Bank and Agency are approved for the reasons summarized above. The acquisition of Bank shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority. The determination as to Agency's activities is subject to the Board's authority to require reports by, and make examinations of, holding companies and their subsidiaries and to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

By order of the Board of Governors,[1] effective October 10, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-17663 Filed 10-16-72;8:49 am]

SECURITIES AND EXCHANGE COMMISSION

[File Nos. 7-4265-7-4272]

ALASKA INTERSTATE CO. ET AL

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

OCTOBER 6, 1972.

In the matter of applications of the Boston Stock Exchange, for unlisted trading privileges in certain securities.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
Alaska Interstate Co	7-4265
American South African Investment Co., Ltd	7-4266
Aztec Oil & Gas Co	7-4267
Banister Continental Corp	7-4268
Gino's Inc	7-4269
Homestake Mining Co	7-4270
Lubrizol Corp	7-4271
Monroe Auto Equipment Co	7-4272

Upon receipt of a request, on or before October 22, 1972, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-17631 Filed 10-16-72;8:46 am]

[1] Voting for this action: Chairman Burns and Governors Mitchell, Sheehan, and Bucher. Present and abstaining: Governor Robertson. Absent and not voting: Governors Daane and Brimmer.

[811-1320, 812-3126]

AMOSKEAG CO.

Notice of Filing of Application for Order Declaring That Company Is Not an Investment Company for Order Terminating Its Registration

OCTOBER 6, 1972.

Notice is hereby given that Amoskeag Co. (Amoskeag), Suite 4500, Prudential Center, Boston, Mass. 02199, a Delaware corporation, registered as a closed-end, nondiversified investment company under the Investment Company Act of 1940 (Act), has filed an application: (1) Pursuant to section 3(b)(2) of the Act for an order declaring that Amoskeag is primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding, or trading in securities either directly or through majority-owned subsidiaries or through controlled companies conducting similar types of businesses; and (2) pursuant to section 8(f) of the Act for an order declaring that Amoskeag has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

The application states that Amoskeag registered under the Act on June 4, 1965, in anticipation of succeeding to the business of its predecessor company which had registered under the Act in 1941, and that it carried on its business as an investment company through January 13, 1971, at which time the stockholders of Amoskeag authorized management to change the nature of Amoskeag's business so that it would cease to be an investment company.

A summary of the value of Amoskeag's assets as of December 31, 1971, as submitted by Amoskeag is set forth in Table I below:

TABLE I

	Percent of voting securities owned	Amoskeag's assets: Amount	Amoskeag's assets: Percent
Securities of wholly owned and majority owned subsidiaries:			
Bangor and Aroostook Railroad Co.	99.30	$6,897,635	9.29
Industrial Technology Interface, Inc.	60.00	75,000	.10
Moore's Falls Corp.	100.00	512,011	.69
Springfield Street Railway	57.94	499,369	.67
Westville Homes Corp.	85.00	1,399,750	1.89
Total wholly owned and majority owned companies		9,383,765	12.64
Securities of companies less than majority owned:			
Affiliated companies 25 percent to 49 percent owned:			
Bedford Advisors, Inc.	36.36	51,000	.07
Fanny Farmer Candy Shops, Inc.	37.32	1,874,525	2.53
Fieldcrest Mills, Inc.	39.71	49,247,700	66.36
Maine Central Railroad Co.	26.18	1,004,200	1.35
Worcester Bus Co.	35.19	147,866	.20
Affiliated companies 5 percent to 24 percent owned:			
Computek, Inc.	13.83	513,455	.69
Intercomputer Corp.	13.09	54,000	.07
Unaffiliated companies (less than 5 percent owned)		11,839,492	15.95
Total companies less than majority owned		64,681,238	87.22
Assets other than securities and cash items		102,928	.14
Total assets less Government securities and cash items		74,218,931	100.00
Government securities and cash items		2,672,122	

Section 3(a)(3) of the Act defines as an investment company 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 percent of the value of such issuers total assets (exclusive of Government securities and cash items) on an unconsolidated basis. As used in section 3(a)(3) the term investment securities includes all securities except so far as here pertinent securities issued by majority-owned subsidiaries of the owner which are not investment securities, Government securities and cash items. Table I indicates that investment securities represented by Amoskeag's holdings of securities of less than majority-owned subsidiaries aggregate $64,681,238 or 87.22 percent of its total assets (exclusive of Government securities and cash items) on an unconsolidated basis. Accordingly, it appears that Amoskeag is an investment company as defined in section 3(a)(3).

Section 3(b)(2) of the Act, however, excepts from the definition of an investment company any issuer which the Commission finds and by order declares to be primarily engaged in a business or business other than that of investing, reinvesting, owning, holding, or trading in securities either directly or (a) through majority-owned subsidiary, or (b) through controlled companies conducting similar types of businesses. Section 8(f) of the Act provides, in pertinent part, that whenever the Commission upon application finds that a registered investment company has ceased to be an investment company, it shall so declare by order and upon taking effect of such order, the registration of such company shall cease to be in effect.

Amoskeag contends that it is entitled to an order pursuant to section 3(b)(2) finding that it is not an investment company because of the circumstances described below and, based on such findings and order, that it is entitled to an order pursuant to section 8(f) declaring that it has ceased to be an investment company.

Amoskeag states that it is now primarily engaged in the business of manufacturing and selling textiles through Fieldcrest, a controlled company (39.71 percent owned) and in the following businesses through the companies noted, which are hereinafter referred to collectively as the "wholly owned and majority-owned subsidiaries:" the surface transportation business through Springfield Street Railway (57.94 percent owned); the railroad business through Bangor and Aroostook Railroad Co. (99.30 percent owned); the development of land through Moore's Falls Corp. (100 percent owned); the manufacture and sale of prefabricated residences through Westfield Homes Corp. (85 percent owned); and the technology transfer business through Industrial Technology Interface, Inc. (60 percent owned).

On the basis of the values of its assets at December 31, 1971, as shown in the application, the value of Amoskeag's interest in the businesses of Fieldcrest and in the businesses of Amoskeag's wholly owned and majority-owned subsidiaries represented 79 percent of Amoskeag's total assets (exclusive of Government securities and cash items); and the value of Amoskeag's interest in Fieldcrest alone represented 66.36 percent of such total assets.

For the year 1971, Amoskeag's net income excluding and including realized capital gains from the sale of securities was $2,801,593 and $3,602,226, respectively. Of these amounts, the dividends of $1,984,080 received from Fieldcrest alone represent 70.8 and 55.07 percent thereof, respectively; and the dividends of $2,042,931 received from Fieldcrest and the wholly owned and majority-owned subsidiaries represent 72.9 and 56.71 percent thereof, respectively.

The application shows that, prior to the recent death of the chairman of the Amoskeag board for whom no successor has been named, six individuals who were officers or directors of Amoskeag also served as directors of Fieldcrest whose board of directors consists of 12 members; that five individuals who were offirecs or directors of Amoskeag were members of Fieldcrest's executive committee which consists of six members. Included among the persons who serve both Fieldcrest and Amoskeag as directors is the new president of Fieldcrest who was nominated for such position by Amoskeag and who thereafter became a director of Amoskeag.

The application states that Amoskeag's president spends a substantial portion of his working time on the affairs of Fieldcrest, and that Amoskeag through its president and its other representatives (including the president of Fieldcrest), who are members of Fieldcrest's executive committee, controls and directs all aspects of the operations of Fieldcrest.

The application indicates that representatives of Amoskeag are among the officers and directors of each of Amoskeag's wholly owned and majority-owned subsidiaries. The application states that the president of Amoskeag and his assistant railroads serve Bangor and Aroostook Railroad as chief executive officer and chief operating officer, respectively, and that through these individuals and one other of its representatives Amoskeag operates Bangor and Aroostook Railroad. The application also states that Amoskeag exercises operating and financial control over Westville Homes Corp.; that Amoskeag exercises financial control and general policy supervision over Industrial Technology Interface, Inc.; and that Amoskeag participates in the direction of the affairs of Springfield Street Railway through two of its directors who are also on the board of directors of Springfield and, until his recent death, through the chairman of the board of directors of Amoskeag who also served as the chairman of the board of directors of Springfield.

The application shows that the management of Amoskeag has stated that although Amoskeag may continue to trade in securities, the scope of such trading would be minor in relation to the value of its investments in the majority-owned subsidiaries or otherwise controlled companies through which it conducts its noninvestment company businesses. The application further shows that Amoskeag's management has also stated that while Amoskeag would continue to keep its funds not needed for the conduct of the noninvestment company businesses of its majority-owned and controlled companies invested in Government or investment securities, management believes that full attainment of its noninvestment company business objectives would reduce the value of Amoskeag's holdings of investment securities to a point where their value would represent less than 40 percent of the value of Amoskeag's total assets exclusive of Government securities and cash items; and that management considers that the value of such investment securities would normally not exceed 30 percent of the value of such total assets, less Government securities and cash items.

The application suggests that Amoskeag became primarily engaged in the noninvestment company businesses of Fieldcrest and Amoskeag's wholly owned

and majority-owned subsidiaries after January 13, 1971, when the stockholders of Amoskeag authorized changing the nature of that company's business so as to cease to be an investment company. However, it should be noted that for some time prior to January 13, 1971, Amoskeag held voting interests in Fieldcrest and the wholly owned and majority-owned subsidiaries (except for Industrial Technology Interface, Inc.) roughly equivalent to those shown in Table I and representatives of Amoskeag served each of the other companies in various important capacities such as officers or directors and that through its representatives Amoskeag participated in the affairs of each of the other companies. Furthermore, the application shows that prior to January 13, 1971, Amoskeag's interest in Fieldcrest and the wholly owned and majority-owned subsidiaries constituted an important part of Amoskeag on an asset and earnings basis. For example, on the basis of the information contained in the application, Amoskeag's investment in Fieldcrest alone at December 31, 1969, amounted to $39,905,500 or 59.86 percent of total assets, exclusive of Government securities and cash items; and at the same date the value of Amoskeag's interests in Fieldcrest and its wholly owned and majority-owned subsidiaries was $47,112,061 or 70.67 percent of total assets, exclusive of Government securities and cash items. Nonetheless, the application states that prior to January 13, 1971, when Amoskeag's stockholders approved changing the nature of its business, Amoskeag considered itself to be engaged in the business of an investment company and not to be primarily engaged in the noninvestment businesses of Fieldcrest or of Amoskeag's wholly owned and majority-owned subsidiaries, because its interest in each of such companies was then viewed solely as a "special situation" investment.

The application states that by a special situation Amoskeag means an investment in a company as to which Amoskeag exercises some degree of control and in the organization of which Amoskeag participated or in which its investment has constituted a substantial percentage of the voting securities of the particular company, and which investment has been made on the basis of a judgment that it offered an unusual opportunity for increase in value and eventual realization of gain when the investment should be sold. It should be noted that Amoskeag or its predecessor company has owned a substantial common stock interest in Fieldcrest since 1953; that the predecessor company of Amoskeag participated in the organization of Fieldcrest in 1953, and owned over 50 percent of Fieldcrest's common stock during the period 1953–63; and that at December 31, 1971, Amoskeag still owned 39.71 percent of Fieldcrest's outstanding common stock. It should also be noted that Amoskeag has held interests in each of its wholly owned and majority-owned subsidiaries listed below since the dates shown as follows: Moore's Falls Corp., 1921; Springfield Street Railroad Co., 1941; Bangor and Aroostook Railroad Co., 1969; Westville Homes Corp., 1969; Industrial Technology Interface, Inc., 1970.

The application states that Amoskeag no longer considers its interests in Fieldcrest and its wholly owned and majority-owned subsidiaries to be special situations but that Amoskeag considers that they constitute investments in business operations to realize profits and increases in values from such operations. In support, the application cites, among other things, the formal declaration by the board of directors on November 30, 1971, of an operating and business policy providing, in part, for the development and expansion of the businesses conducted by Fieldcrest and the wholly owned and majority-owned subsidiaries with a view to the realization of profits out of the conduct of such businesses (rather than the eventual realization of gain when the interest should be sold). The application also asserts the intention of Amoskeag to hold and to continue to operate and develop these businesses.

Notice is further given that any interested person may, not later than October 31, 1972, 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 Amoskeag 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 this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-17632 Filed 10-16-72;8:46 am]

[70-5236]

COLUMBIA GAS SYSTEM, INC. AND COLUMBIA GAS DEVELOPMENT CORP.

Notice of Proposed Issue and Sale of Common Stock by Subsidiary Company To Finance Drilling Joint Venture and Acquisition Thereof by Parent Registered Holding Company

OCTOBER 10, 1972.

Notice is hereby given that Columbia Gas System, Inc. (Columbia), 20 Montchanin Road, Wilmington, DE 19807, a registered holding company, and its wholly owned nonutility subsidiary company, Columbia Gas Development Corp. (Development), have filed with this Commission an application-declaration pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6, 7, 9, 10, and 12 of the Act and Rules 43 and 45 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to said application-declaration, which is summarized below, for a complete statement of the proposed transactions.

In recognition of the increased demand for gas and oil reserves, the Federal Government is leasing a number of tracts offshore Louisiana and Texas for exploration and development. Natural gas suppliers (including Columbia), desiring to obtain additional reserves from these offshore areas, must either buy gas from companies which have acquired leases and subsequently developed reserves thereon, or must, individually or as a member of a group, seek to acquire such leases. The Federal Government proposes to conduct lease sales of offshore Louisiana and Texas acreage in December 1972. Present indications are that 135 tracts, involving 618,758 acres, will be put up for bidding.

Columbia proposes the formation of a joint drilling venture (Main Drilling Venture) to bid for offshore leases and thus to be a major participation in the lease purchases. The participants in Main Drilling Venture, as noted below, will be two other joint ventures, in both of which Development will participate. These two constituent joint ventures and their respective capital obligations to Main Drilling Venture are: Coleve, $150 million; and Forest Drilling Venture, $50 million. Leases obtained by Main Drilling Venture will be operated by Forest Oil Corp. (Forest Oil), a nonaffiliated oil and gas production company.

The two participants in Coleve will be Development and a nonaffiliated company, Energy Ventures, Inc. (Energy). Capitalization of Coleve is to consist of a contribution by Energy of a $50 million advance in the form of a loan (Energy Loan), and of $50 million for equity entitling Energy to a 50 percent participation in Coleve. The remaining $50 million contribution of Coleve is to be made by Development as needed to provide for 75 percent of the cost of exploratory and

development drilling and will entitle Development to a 50 percent participation in Coleve. Energy intends to sell its stock to the public to obtain the capital for its participation. It is contemplated that Energy's contribution of $100 million, when paid to Main Drilling Venture, will represent 75 percent of the amounts to be paid to the Federal Government for leases.

The Coleve agreement provides that unless a minimum of $25 million has been spent for leases and participation is acquired in at least five offshore tracts, Energy has the option to withdraw from Coleve, in which case Development will assume the Coleve obligations for leases which have been obtained. If funds in excess of $150 million are required by Coleve, both Energy and Development are to provide funds equal to their then participation. However, Energy has the option to decline to meet the call for additional funds, in which case, such funds will be provided by Development with pro rata adjustment in the participation percentages of Energy and Development.

The Coleve agreement further provides that the $50 million Energy Loan may be converted at any time into an equity participation in Coleve on a dollar-for-dollar basis. Thus, should the entire Energy Loan be converted, Energy would then own 66⅔ percent and Development 33⅓ percent respectively, participation in Coleve. To the extent the Energy Loan is not converted, Energy has the option to present one-third of the Energy Loan for payment in each of the years 1977, 1978, and 1979. In such event, Development is obliged to make additional contributions to Coleve in an amount equal to the principal amount of the Energy Loan surrendered, and the participation of Energy and Development will remain at 50 percent each. In the event the Energy Loan is not converted or presented for payment, it will remain as outstanding debt of Coleve and will be payable in eight annual installments, beginning 7½ years after its issuance. The Energy Loan will bear interest at the prime commercial bank rate, adjusted quarterly, except that for the first 4½ years interest will be limited to the extent of Coleve's net earnings, payable annually on a noncumulative basis only.

Under the Coleve agreement, Development's maximum obligation would be $100 million. Columbia requests authorization to purchase, at $15 par value per share, up to 6,666,666 shares of common stock to be issued and sold by Development so as to provide Development with the $50 million needed to meet the cost of exploratory and development drilling plus such additional amounts, not to exceed $50 million, as to permit Development to make advances to Coleve in the event Energy requests Coleve to repay the full amount of the Energy Loan.

Forest Drilling Venture, the other member of Main Drilling Venture, is to have a $50 million capitalization, $45 million to be contributed by Forest Oil for a 90 percent participation and $5 million by Development for a 10 percent participation. Forest Drilling Venture is to devote $33,330,000 of its capitalization towards lease acquisitions, 90 percent of which ($30 million) will represent Forest Oil's contribution and 10 percent ($3,330,000), that of Development. Development has agreed to advance Forest Oil's $30 million contribution for lease acquisitions. The balance of Forest Drilling Venture capitalization, estimated to be $16,670,000, will be initially provided by Development for exploratory and development costs.

Forest Oil is to repay the advance to it for lease acquisitions in amounts equal to 180 percent of the amounts provided by Development for exploratory and development costs. If the exploratory and development costs total $16,670,000, Forest Oil will have repaid Development $30 million, but it will then owe Development approximately $15 million for Forest Oil's 90 percent share of the exploratory and development costs.

Development's advances to Forest Oil for lease acquisitions and for exploratory and development costs will bear simple interest at a rate equal to one-half of 1 percent over the current prime rate of the Chase Manhattan Bank (National Association). Interest on these advances will be paid out of the income allocable to Forest Oil from the Main Drilling Venture. Any such remaining income will be applied to the repayment of Forest Oil's obligations for lease acquisitions or for exploratory and development costs. If payment of the advance has not been recouped by or paid to Development by December 31, 1980, Forest Oil is to pay one-half of the amount not recouped by or paid to Development. The remaining one-half will continue to be subject to the recoupment and payment provisions described above.

Columbia states that through the Main Drilling Venture, the amount of acreage which could be acquired is double the amount which Columbia could obtain if it were only to apply its own cash resources. Development or an affiliated company will have the first right to purchase at competitive prices all gas assignable to Coleve and Forest Drilling Venture by reason of their participation in Main Drilling Venture. Both the Coleve and The Forest Drilling Venture agreements provide that Development will be entitled to all drilling deductions for tax purposes.

It is stated that the fees, commissions and expenses to be paid or incurred, directly or indirectly, in connection with these transactions by the applicant or declarant or any associate company thereof are to be filed by amendment, and that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than October 20, 1972, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-17624 Filed 10-16-72;8:46 am]

[812-3214]

HAMILTON FUNDS, INC., ET AL.

Notice of Application for an Order Exempting Applicants

OCTOBER 10, 1972.

Notice is hereby given that Hamilton Funds, Inc., Hamilton Growth Fund, Inc., and Hamilton Income Fund, Inc. (Funds), all open-end diversified management investment companies registered under the Investment Company Act of 1940 (Act), and Hamilton Management Corp. (Hamilton), c/o Edward F. O'Keefe, 7400 South Alton Court, Post Office Box 5061, Denver, CO 80217, a registered broker-dealer and principal underwriter of the shares of the Funds (hereinafter collectively called "Applicants"), have filed an application pursuant to section 6(c) of the Act for an order of the Commission exempting Applicants from the provisions of section 22(d) of the Act. All interested persons are referred to the application, as amended, on file with the Commission for a statement of the representations made therein, which are summarized below.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof shall sell any redeemable security issued by such company to any person except at a current offering price described in the prospectus.

The shares of the Funds are normally offered and sold to the public at a price

which includes a maximum sales load of 8½ percent of the offering price.

Applicants propose to offer to persons who redeem any one or any portion of any one of his Fund accounts a one-time privilege to elect to utilize all or any portion of his redemption proceeds to purchase shares of any one of the Funds at net asset value.

The privilege would be communicated to redeeming investors of the Funds either orally or in writing and would have to be exercised within 15 days after receipt by Hamilton of the investor's redemption request. Shares would be sold to an investor who has exercised the privilege of reinvestment at the applicable Fund's net asset value next computed after receipt of the investor's written, telephoned or telegraphed order.

The privilege will be disclosed in the prospectuses of each of the Funds, and may be exercised only once by any one investor. No sales commission will be paid, either directly or indirectly, to any individual or entity as consideration for the exercise of the privilege and any costs and expenses associated with efforts expended to advise redeeming investors of the privilege will be borne by Hamilton or some entity other than the Funds. Where the proceeds from the redemption of any one or any portion of any one of the investor's Fund accounts are utilized to purchase shares in one or more of the Funds other than the Fund from which the investor has made a redemption, the customary $5 exchange fee will be assessed. Where the investor's account is merely reinstated in the same Fund from which he has made a redemption within the preceding 15 days, no such service charge will be made.

Applicants contend, among other things, that the proposed privilege will enable investors to be reminded of features of their investment which they may have overlooked, or of which they may have been unaware at the time they redeemed; that the privilege does not operate to the prejudice of the Funds or their shareholders; and that the one-time feature will prevent any speculation or trading against the Funds.

Section 6(c) of the Act provides that the Commission may conditionally or unconditionally exempt any person or transaction from any provisions of the Act if 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 3, 1972, 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 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 Applicants at the address stated above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for a hearing thereon shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72–17627 Filed 10–16–72;8:46 am]

[812–3253]

MANHATTAN FUND, INC., ET AL.

Notice of Application Pursuant for an Order Exempting Applicants

OCTOBER 10, 1972.

Notice is hereby given that Manhattan Fund, Inc., TMR Appreciation Fund, Inc., and Liberty Fund, Inc. (Funds), all of which are open-end diversified management investment companies registered under the Investment Company Act of 1940 (the Act), and Tsai Management & Research Corp. (Corporation), 245 Park Avenue, New York, NY 10017, a Delaware corporation, the Funds' principal underwriter (hereinafter collectively called "Applicants"), have filed an application pursuant to section 6(c) of the Act for an order exempting Applicants 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 made therein, which are summarized below.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof shall sell any redeemable security issued by such company to any person except at a current offering price described in the prospectus.

Applicants propose to offer to persons who redeem shares of any of the Funds a one-time privilege to: (a) Reinstate their accounts by repurchasing shares at net asset value without a sales charge up to the amount redeemed; or (b) purchase under the exchange privilege available generally to shareholders of the Funds, shares of any other of the Funds at net asset value without a sales charge up to the amount redeemed. Notice of this proposed privilege will be given to eligible persons in writing or by telephone as part of the processing of their redemption request. To be effective, notice from such eligible persons of the exercise of the privilege must be received or postmarked within 15 days after the redemption request is received. The reinstatement or exchange will be made at the net asset value on the day that notice of the exercise of the privilege is received.

Applicants assert that in order to defeat the possibility of abuse, the privilege will be offered to shareholders who have requested redemption on a one-time basis. Once a person has exercised the privilege as to his holdings in any of the Funds, the privilege will not thereafter be available to him upon redemption of shares in that or any other of the Funds.

Applicants state that no compensation of any kind will be paid to any dealer or salesman in connection with the purchase or exchange of shares pursuant to exercise of the privilege. Any cost involved will be borne by the underwriter of the Funds' shares, Tsai Management & Research Corp., except that the $5 service fee payable by all shareholders exercising the exchange privilege will be charged where appropriate.

Applicants contend that the proposed privilege will remind investors of features of their investment which they may have overlooked or which they may have been unaware at the time they redeemed. In addition, Applicants assert that the privilege does not operate to the prejudice of the Funds or their shareholders and that the one-time feature will prevent any speculation or trading against the Funds.

Section 6(c) of the Act provides that the Commission may conditionally or unconditionally exempt any person or transaction from any provisions of the Act if 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 3, 1972, 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 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 Applicants at the address stated above. Proof of such service (by affidavit or in case of any attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of

the information stated in said application, unless an order for hearing thereon shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-17626 Filed 10-16-72;8:46 am]

[File No. 7-4264]

McDONOUGH CO.

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

OCTOBER 6, 1972.

In the matter of application of the Boston Stock Exchange, for unlisted trading privileges in a certain security.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchange:

McDonough Co., File No. 7-4264

Upon receipt of a request, on or before October 22, 1972, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-17630 Filed 10-16-72;8:46 am]

[File No. 24NY-7365]

MINUTE APPROVED CREDIT PLAN, INC.

Order Temporarily Suspending Exemption, Statement of Reasons Therefor, and Notice of Opportunity for Hearing

SEPTEMBER 26, 1972.

I. Minute Approved Credit Plan, Inc. (Minute) is a New York corporation located at 2 Ralph Avenue, Brooklyn, NY. It was organized on June 8, 1961, and was engaged in the business of purchasing installment credit consumer obligations from retail dealers.

On June 25, 1971, it filed a notification pursuant to Regulation A in connection with a proposed offering of 100,000 shares of its $0.05 par value common stock at $5 per share. The offering was conducted by A. C. Kluger & Co. (underwriter) as underwriter on a "best efforts 50 percent or none" basis. After several post-effective amendments the offering was actually commenced on June 9, 1972. A "closing" was held on July 17, 1972, covering the sale of 50 percent of the 100,000 shares being offered.

II. The Commission, on the basis of information reported to it by its staff, has reasonable cause to believe that:

A. The notification and offering circular filed by Minute contain untrue statements of material facts and omit to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, in the following respects:

1. The offering circular fails to state material facts concerning the proposed use of proceeds, in particular that a substantial portion of the proceeds of the offering would be used to make loans and payments to certain individuals.

2. The offering circular is materially false and misleading in that Minute failed to conduct the offering in accordance with the terms set forth therein, which provided that funds received under the offering would be returned to subscribers unless a minimum number of shares were sold within 120 days and that the money received during the 120-day period would be deposited in a special account.

3. The offering circular is false and misleading in that a substantial portion of the funds received by Minute did not represent shares sold in a bona fide distribution, but were given by the underwriter to Minute merely to make the minimum (the sale of 50,000 shares).

4. The notification and offering circular failed to state that Michael Hellerman (Hellerman) and Ivan Ezrine (Ezrine) would participate as underwriters in the offering, as that term is defined in section 2(11) of the Securities Act of 1933.

5. The offering circular omitted to state material facts concerning injunctions filed against Hellerman and Ezrine from further violations of the antifraud provisions of the Federal securities laws in connection with the sale of Globus International, Ltd., stock and Manor Nursing Centers, Inc., stock, respectively.

B. Hellerman and Ezrine, undisclosed underwriters, and the subject of injunctions restraining them from further violations of the antifraud provisions of the Federal securities laws, commenced participation in the offering after the filing of the notification and such participation is deemed an event which would have rendered the exemption unavailable if it had occurred prior to such filing.

C. Based on the foregoing, the use of the offering circular by Minute and underwriter operated as a fraud and deceit upon purchasers of the securities in violation of section 17(a) of the Securities Act of 1933, as amended.

III. It appearing to the Commission that it is in the public interest and for the protection of investors that the exemption of the issuer under Regulation A be temporarily suspended.

It is ordered, Pursuant to Rule 261(a) of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption of the issuer under Regulation A be, and hereby is, temporarily suspended.

It is further ordered, Pursuant to Rule 7 of the Commission's rules of practice, that the issuer file an answer to the allegations contained in this order within 30 days of the entry thereof.

Notice is hereby given that any person having any interest in the matter may file with the Secretary of the Commission a written request for a hearing within 30 days after the entry of this order; that within 20 days after receipt of such request the Commission will, or at any time upon its own motion may, set the matter down for a hearing at a place to be designated by the Commission for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; and that notice of the time and place for the said hearing will be promptly given by the Commission. If no hearing is requested and none is ordered by the Commission, the order shall become permanent on the 30th day after its entry and shall remain in effect unless it is modified or vacated by the Commission.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-17623 Filed 10-16-72;8:46 am]

[Files Nos. 7-4273—7-4280]

NATIONAL SEMICONDUCTOR CORP. ET AL.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

OCTOBER 6, 1972.

In the matter of applications of the Boston Stock Exchange, for unlisted trading privileges in certain securities.

The above-named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
National Semiconductor Corp	7-4273
Peabody Gallon Corp	7-4274
Reichhold Chemicals, Inc	7-4275
Scott & Fetzer Co	7-4276
Tandy Corp	7-4277
Texas Oil & Gas Corp	7-4278
Winnebago Industries, Inc	7-4280

Upon receipt of a request, on or before October 22, 1972, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-17629 Filed 10-16-72;8:46 am]

[812-3244]

SMITH, BARNEY EQUITY FUND, INC., ET AL.

Notice of Application for Exemption

OCTOBER 10, 1972.

Notice is hereby given that Smith, Barney Equity Fund, Inc., and Smith, Barney Income and Growth Fund, Inc. (Funds), diversified open-end management investment companies registered under the Investment Company Act of 1940 (Act), Smith, Barney & Co. Incorporated, 1345 Avenue of Americas, New York, NY 10019, distributor of the Funds' shares (Distributor), and James H. Walker (Walker), 437 Main Street, Bethlehem, PA 18018 (hereinafter collectively called Applicants), have filed an application for an order of the Commission pursuant to section 6(c) of the Act declaring that Walker shall not be deemed an "interested person" of the Funds or the Distributor within the meaning of section 2(a)(19) of the Act solely by reason of his status as a director of the Equitable Life Assurance Society of the United States (Equitable). All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Walker, a member of the board of directors of each of the Funds, is also a director of Equitable, a mutual insurance company incorporated under the laws of New York, which is in the business of selling life insurance and variable annuities. Equitable sells individual variable annuities funded by separate accounts that are registered under the Act, and HR-10 plans funded by separate accounts, interests in which are registered under the Securities Act of 1933. Equitable is registered as a broker-dealer under the Securities Exchange Act of 1934, and is a member of the National Association of Securities Dealers (NASD).

In December 1971, Equitable organized a wholly owned brokerage subsidiary, Equico Securities, Inc. (Equico), which is a member of the Philadelphia-Baltimore-Washington Stock Exchange. Equico is not at present registered as a broker-dealer under the Securities Exchange Act of 1934, nor is it at present a member of the NASD. The Applicants are informed that Equico deals only in listed securities, and acts as a broker solely for Equitable.

Applicants represent that neither Equitable nor Equico has ever engaged in securities transactions on behalf of either of the Fund, or of Distributor. Furthermore, the Funds have undertaken not to purchase any securities from or through, or sell any securities to or through, Equitable or Equico so long as Walker remains a director of the Funds.

Walker in no way participates in the day-to-day operations of Equitable, and he is neither a director or officer of Equico, nor in any other way a participant in the day-to-day operations of Equico.

Section 2(a)(19) of the Act defines an "interested person" of an investment company and its principal underwriter to include any broker or dealer registered under the Securities Exchange Act of 1934, or any affiliated person of such broker or dealer. Section 2(a)(3) of the Act defines an affiliated person of another person to include any director of such other person.

Walker, as a director of Equitable, is and affiliate of a broker-dealer, and is thus an "interested person" of the other Applicants.

Section 6(c) of the Act provides that the Commission may conditionally or unconditionally exempt any person from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants contend that Walker should not be deemed an "interested person" of Applicants because his affiliation with Equitable does not affect, and will not impair, his independence in acting on behalf of Applicants and their shareholders, and the requested exemption is therefore consistent with the provisions of section 6(c) of the Act.

Notice is further given that any interested person may, not later than November 3, 1972, 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 the Applicants at the address stated above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said 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 Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-17628 Filed 10-16-72;8:46 am]

[70-5243]

SOUTHERN CO.

Notice of Proposed Issue and Sale of Common Shares by Holding Company

OCTOBER 10, 1972.

Notice is hereby given that The Southern Co. (Southern), Perimeter Center East, Post Office Box 720071, Atlanta, GA 30346, a registered holding company, has filed a declaration and an amendment thereto with this Commision pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a)

and 7 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, as amended, which is summarized below, for a complete statement of the proposed transaction.

Southern proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, additional shares of its authorized but unissued common stock, par value $5 per share, in an amount which will result in aggregate cash proceeds of approximately $143 million. The precise number of shares of such additional common stock to be issued and sold will be supplied by amendment. At June 30, 1972, Southern had 62,449,500 shares of common stock outstanding. The proceeds of the sale of the common stock, together with other funds, will be invested by Southern in its subsidiary companies in the aggregate amount of $170,500,000 ($75 million had been invested at June 30, 1972), and will be used to pay all outstanding short-term promissory notes of Southern estimated to aggregate approximately $69,600,000 at the time of the sale of the common stock, which notes were issued for the purpose of making such investments, and for other corporate purposes.

Estimates of the fees and expenses to be incurred in connection with the proposed issue and sale of common stock are to be filed by amendment. It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than October 31, 1972, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-17625 Filed 10-16-72;8:46 am]

SMALL BUSINESS ADMINISTRATION

[License No. 04/04-5106]

BURGER KING MESBIC, INC.

Notice of Issuance of License To Operate as a Minority Enterprise Small Business Investment Company

On August 26, 1972, a notice was published in the FEDERAL REGISTER (37 F.R. 17445), stating that Burger King MESBIC, Inc., 7360 North Kendall Drive, Miami, FL 33156, had filed an application with the Small Business Administration (SBA), pursuant to section 107.102 of the SBA rules and regulations governing Small Business Investment Companies (13 CFR 107.102 (1972)), for a license to operate as a minority enterprise small business investment company (MESBIC).

Interested parties were given to the close of business September 10, 1972, to submit their written comments to SBA.

Notice is hereby given that, having considered the application and all other pertinent information, SBA has issued License No. 04/04-5106 to Burger King MESBIC, Inc., pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended.

Dated: October 6, 1972.

ANTHONY G. CHASE, *Deputy Administrator.*

[FR Doc.72-17636 Filed 10-16-72;8:47 am]

[License No. 02/02-0110]

STUYVESANT CAPITAL CORP.

Notice of Surrender of License

Notice is hereby given that Stuyvesant Capital Corp., 485 Madison Avenue, New York, NY 10022, incorporated under the laws of the State of New York on July 6, 1961, has surrendered its License No. 02/02-0110, issued by the Small Business Administration (SBA) on September 8, 1961.

Stuyvesant Capital Corp. has complied with all conditions set forth by SBA for surrender of its license. Therefore, under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the regulations promulgated thereunder, the surrender of the license of Stuyvesant Capital Corp. is hereby accepted and it is no longer licensed to operate as a small business investment company.

Dated: October 6, 1972.

ANTHONY G. CHASE, *Deputy Administrator.*

[FR Doc.72-17637 Filed 10-16-72;8:47 am]

INTERSTATE COMMERCE COMMISSION

[Notice 136]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 5, 1972.

The following are notices of filing of applications[1] for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 263 (Sub-No. 203 TA), filed September 26, 1972. Applicant: GARRETT FREIGHTLINES, INC., 2055 GARRETT Way, Post Office Box 4048, Pocatello, ID 83201. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, household goods as defined by the Commission, commodities in bulk and those requiring special equipment, serving the plantsite of J. R. Simplot Co., near Orchard, Idaho, as an off-route point in connection with carrier's regular route operations, for 180 days. NOTE: Applicant does intend to tack authority and to interline with other carriers. Supporting shipper: J. R. Simplot, 805 Idaho Street, Boise, ID 83701. Send protests to: C. W. Campbell, Interstate Commerce Commission, Bureau of Operations, 550 West Fort Street, Box 07, Boise, ID 83702.

No. MC 16634 (Sub-No. 16 TA), filed September 25, 1972. Applicant: STRANG TRANSPORTATION, INC., Center and Elmer Streets, Elmer, N.J. 08318. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prepared animal and poultry*

[1] Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

feeds, from the plantsite of the Ralston Purina Co., Hampden Township (Camp Hill), Pa., to points in New Jersey and New York, for 180 days. Supporting shipper: Ralston Purina Co., Post Office Box 248, Camp Hill, PA 17011. Send protests to: Richard M. Regan, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 428 East State Street, Room 204, Trenton, NJ 08608.

No. MC 26396 (Sub-No. 61 TA), filed September 22, 1972. Applicant: POPELKA TRUCKING CO., doing business as THE WAGGONERS, Post Office Box 990, 201 West Park, Livingston, MT 59047. Applicant's representative: Wayne Waggoner (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Forest products*, from Laramie, Wyo., to points in Colorado and Nebraska, for 180 days. Supporting shipper: St. Regis Paper Co., Wheeler Division, West Des Moines, Iowa. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 251 U.S. Post Office Building, Billings, Mont. 59101.

No. MC 41098 (Sub-No. 37 TA), filed September 27, 1972. Applicant: GLOBAL VAN LINES, INC., No. 1, Global Way, Anaheim, CA 92803. Applicant's representative: Stanley I. Goldman, 1700 K Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, in containers, in mixed loads with household goods, as defined by the Commission, in interstate or foreign commerce, between (1) Oklahoma City, Okla., and Tulsa, Okla., and (2) Tulsa, Okla., and Mid-Continent International Airport, Kansas City, Mo., restricted to shipments having a prior or subsequent movement by air in the service of Trans World Airlines, Inc., for 180 days. Supporting shipper: Trans World Airlines, Inc., 605 Third Avenue, New York, NY 10016. Send protests to: John E. Nance, Officer-in-Charge, Interstate Commerce Commission, Bureau of Operations, Room 7708 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 44639 (Sub-No. 59 TA), filed September 26, 1972. Applicant: L & M EXPRESS CO., INC., 220 Ridge Road, Lyndhurst, NJ 07071. Applicant's representative: Herman B. J. Weckstein, 60 Park Place, Newark, NJ 07102. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Wearing apparel and materials and supplies* used in the manufacture of wearing apparel, between Franklin, Va., on the one hand, and, on the other, Crewe, Va., Emporia, Va., and points in the New York, N.Y., commercial zone, for 180 days. NOTE: Applicant states it does intend to tack at Crewe, Va., Emporia, Va., and New York, N.Y., with all authorized operations in MC-44639. Supporting shipper: Emporia Garment Co., 415 Main Street, Emporia, VA 23847. Send protests to: District Supervisor Joel Morrows, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

No. MC 71446 (Sub-No. 6 TA), filed September 26, 1972. Applicant: JAMES R. STINNETT AND EVELYN K. STINNETT, doing business as STINNETT TRUCKING, Route 1, Box 86, Lovelock, NV 89419. Applicant's representative: James R. Stinnett (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ore*, in bulk, from Mammoth, Calif., to Luning, Nev., for 150 days. Supporting shipper: David L. Pruett, Route 2, Box 69, Gardnerville, NV 89410. Send protests to: District Supervisor Robert G. Harrison, Interstate Commerce Commission, Bureau of Operations, 203 Federal Building, 705 North Plaza Street, Carson City, NV 89701.

No. MC 103051 (Sub-No. 258 TA), filed September 26, 1972. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Avenue North, Post Office Box 90408, Nashville, TN 37209. Applicant's representative: W. G. North (same address as above). Authority sought to operative as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, from Tampa, Fla., to points in North Carolina, for 180 days. Supporting shipper: Sun Oil Co., 1808 Walnut Street, Philadelphia, PA 19103. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite 803, 1808 West End Building, Nashville, TN 37203.

No. MC 106674 (Sub-No. 99 TA), filed September 26, 1972. Applicant: SCHILLI MOTOR LINES, INC., Post Office Box 122, Delphi, IN 46923. Applicant's representative: Thomas R. Schilli (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Compost*, from points in Allegan County, Mich., and Lagrange County, Ind., to West Chicago, Ill., for 180 days. Supporting shipper: Campbell Soup Co., Campbell Place, Camden, N.J. 08101. Send protests to: District Supervisor J. H. Gray, Bureau of Operations, Interstate Commerce Commission, 345 West Wayne Street, Room 204, Fort Wayne, IN 46802.

No. MC 110420 (Sub-No. 664 TA), filed September 25, 1972. Applicant: QUALITY CARRIERS, INC., Post Office Box 186, Pleasant Prairie, WI 53158, Office: I-94 County Highway C, Bristol, Kenosha County, Wis. 53104. Applicant's representative: Fred H. Figge (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal food ingredients*, liquid, in bulk, in tank vehicles, from Madison, Wis., to Albert Lea, Minn., for 180 days. Supporting shipper: Oscar Mayer & Co., Inc., Madison, Wis. 53701 (Dale M. Gillings, Assistant General Traffic Manager). Send protests to: District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Madison, WI 53203.

No. MC 111687 (Sub-No. 35 TA), filed September 13, 1972. Applicant: BEN RUEGSEGGER TRUCKING SERVICE, INC., Route No. 1, Kawkawlin, Mich. 48631. Applicant's representative: Benjamin H. Ruegsegger (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages* and the *return of malt beverage containers*, from Bensenville, Ill., to Bay City, Mich., for 150 days. Supporting shipper: Robert H. Kolb, Kolb Sales Co., Bay City, Mich. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 225, Federal Building, Lansing, Mich. 48933.

No. MC 113025 (Sub-No. 4 TA), filed September 22, 1972. Applicant: RALPH C. ISLAND, doing business as ISLAND FREIGHT, Box 147, Deadwood, SD 57732. Applicant's representative: A. Milton Evans, Post Office Box 1286, Rapid City, SD 57701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Seeds, flour, and animal and mineral feeds*, in bulk and in bags, from Rapid City, S. Dak., to points in Adams, Billings, Mowman, Golden Valley, Grant, Hettinger, Morton, Sioux, Slope, and Stark Counties, N. Dak., and that area in Nebraska west of U.S. Highway 281, including all cities, towns, or municipalities located therein, for 180 days. Supporting shipper: Hubbard Milling Co. of South Dakota, Feed Division, Post Office Box 431, Rapid City, SD 57701, Dennis W. Fredericksen, Plant Manager. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Building, Pierre, S. Dak. 57501.

No. MC 123255 (Sub-No. 28 TA), filed September 27, 1972. Applicant: B & L MOTOR FREIGHT, INC., 140 East Everett Avenue, Newark, OH 43055. Applicant's representative: C. J. Schnee, Jr. (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty foodstuffs containers*, from Holland, Mich., to Muscatine, Iowa, for 180 days. Supporting shipper: H. J. Heinz Co., Post Office Box 57, Pittsburgh, PA 15230. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 255 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, OH 43215.

No. MC 125522 (Sub-No. 5 TA), filed September 26, 1972. Applicant: SUNBURY TRANSPORT, LIMITED, Hoyt, New Brunswick, Canada. Applicant's representative: Francis E. Barrett, Jr., 10 Industrial Park Road, Hingham, MA 02043. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Windsor, N.C., to ports of entry on

boundary line between the United States and Canada at or near Houlton, Vanceboro, and Calais, Maine, for 180 days. Supporting shipper: Swedane Co. Ltd., Post Office Box 217, Oromocto, NB, Canada. Send protests to: Donald G. Weiler, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 307, 76 Pearl Street, Portland, ME 04112.

No. MC 127238 (Sub-No. 5 TA), filed September 27, 1972. Applicant: DOROTHY R. ZUMMO, doing business as AIR DELIVERY SERVICE, Post Office Box 1102, Remington Avenue and Locust Street, Scranton, PA 18505. Applicant's representative: S. J. Zummo (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, with the usual exceptions, restricted to shipments having a prior or subsequent movement by air, between Kennedy International Airport, New York, N.Y.; LaGuardia Airport, New York, N.Y.; Newark Airport, Newark, N.J.; Allentown-Bethlehem-Easton Airport, Allentown, Pa.; and Philadelphia International Airport, Philadelphia, Pa., on the one hand, and, on the other, points in Washington Township, Morris County, N.J., for 180 days. Supporting shippers: Elastimold Division, Amerace-Esna Corp., Esna Park, Hackettstown, N.J. 07840; United States Radium Corp., Chemical Products Division, Kings Highway—Box 409, Hackettstown, NJ 07840. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 309 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 128384 (Sub-No. 2 TA), filed September 25, 1972. Applicant: JUNIOR EVERETT DEPRIEST, doing business as JUNIOR DEPRIEST TRUCKING CO., Birch Tree, Mo. 65438. Applicant's representative: B. W. LaTourette, Jr., 611 Olive Street, Room 1850, St. Louis, MO 63101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Stacking strips*, from Birch Tree, Mo., to points in Texas, for 180 days. Supporting shipper: Missouri Hardwood Flooring Co., 8866 Ladue Road, St. Louis, MO 63124. Send protests to: District Supervisor J. P. Werthmann, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 North 12th Street, St. Louis, MO 63101.

No. MC 128616 (Sub-No. 10 TA), filed September 27, 1972. Applicant: BANKERS DISPATCH CORPORATION, 4970 South Archer Avenue, Chicago, IL 60632. Applicant's representative: Stanley Komosa (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents, and written instruments* (except coins, currency, and negotiable securities) as are used in the conduct and operation of banks and banking institutions, between Philadelphia, Pa., on the one hand, and, on the other, points in Delaware and Mercer, Burlington, Ocean, Camden, Gloucester, Atlantic, Salem, Cumberland, and Cape May Counties, N.J., for 180 days. Supporting shipper: Federal Reserve Bank of Philadelphia, Philadelphia, Pa. 19101. Send protests to: District Supervisor R. G. Anderson, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 138030 (Sub-No. 1 TA), filed September 28, 1972. Applicant: C. I. WHITTEN TRANSFER (QUEBEC) INC., Post Office Box 181, Montreal 260, PQ, Canada. Applicant's representative: Joseph G. Dail, 1111 E Street NW., Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ammunition, explosives, substitutes for explosives, and equipment or accessories related to the use or storage of explosives*, between points on the international boundary between the United States (New York) and Canada (Quebec) on the one hand, and Plattsburgh and Malone, N.Y., on the other, restricted to shipments originating in or destined to the dominion of Canada, for 180 days. NOTE: Applicant states it does intend to interline at Malone or Plattsburg and join with applicants Quebec Permit No. 22654–V at the border. Supporting shipper: Canadian Industries, Limited, Quebec Sales Office, Box 10, Montreal 101, PQ, Canada. Send protests to: District Supervisor Martin P. Monaghan, Jr., Interstate Commerce Commission, Bureau of Operations, 52 State Street, Room 5, Montpelier, VT 05602.

By the Commission.

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

[FR Doc.72–17682 Filed 10–16–72;8:51 am]

[Notice 137]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 10, 1972.

The following are notices of filing of applications[1] for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC–67 (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 8872 (Sub-No. 8 TA), filed September 29, 1972. Applicant: DYERSBURG EXPRESS, INC., 1625 Hornbrook Street, Dyersburg, TN 38024. Applicant's representative: William H. Pendleton (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum products*, serving the plantside of Consolidated Aluminum, Newbern, Tenn., as an off-route point in conjunction with applicant's existing authority, for 180 days. NOTE: Applicant intends to tack the authority herein applied for to other authority held by it and to interline freight at Memphis, Tenn. Supporting shipper: Consolidated Aluminum Corp., Post Office Box 129, Conalco Drive, Jackson, TN 38301. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 933 Federal Office Building, 167 North Main Street, Memphis, TN 38103.

No. MC 71459 (Sub-No. 28 TA), filed September 28, 1972. Applicant: O. N. C. FREIGHT SYSTEMS, 2800 West Bayshore Road, Palo Alto, CA 94303. Applicant's representative: C. J. Boddington (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, from Page, Ariz., to Salt Lake City, Utah, over regular routes as follows: From Page, Ariz., over U.S. Highway 89 to Salt Lake City, Utah, and return over the same route, serving all intermediate points, for 180 days. NOTE: Applicant does intend to tack the authority here applied for to other authority held by it, or to interline with other carriers, as follows: MC–71459 and Subs, and to interline with carriers at Salt Lake City, Utah. Supported by: There are approximately 20 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor Claud W. Reeves, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, CA 94102.

[1] Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 71718 (Sub-No. 2 TA) (Amendment), filed July 18, 1972, published in the FEDERAL REGISTER issue of August 4, 1972, amended and republished as amended this issue. Applicant: SPOKANE TRANSFER & STORAGE CO., 117 North Napa Street, Post Office Box 3181, Spokane, WA 99220. Applicant's representative: George R. LaBissoniere, 1424 Washington Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except commodities in bulk, household goods, commodities requiring the use of special equipment, and articles of unusual value), between Spokane, Wash., and Moyie Springs, Idaho, from Spokane over U.S. Highway 10 to its junction with Sullivan Road, thence north to Washington State Highway 290, thence east on said highway to Idaho State Highway 53, thence east on said highway to its junction with U.S. Highway 95, thence north on U.S. Highway 95 to its junction with U.S. Highway 2, thence east on U.S. Highway 2 to Moyie Springs and return over the same routes, serving all intermediate points in Idaho and all off-route points in Idaho within 5 miles of the specified highways, for 180 days. Supported by: There are approximately 25 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: E. J. Casey, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 6130 Arcade Building, Seattle, Wash. 98101. NOTE: The purpose of this republication is to redescribe the territorial scope.

No. MC 111401 (Sub-No. 373 TA), filed September 26, 1972. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Boulevard, Enid, OK 73701. Applicant's representative: Alvin L. Hamilton (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Calcium chloride brine*, in bulk, from Dallas, Tex., to Shreveport, La., for 180 days. Supporting shipper: Van Waters & Rogers, Bill Crouch, Traffic Coordinator, Box 34749, Dallas, TX 75234. Send protests to: C. L. Phillips, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 126291 (Sub-No. 20 TA), filed September 29, 1972. Applicant: QUIRION TRANSPORT, INC., Notre Dame, La Guadeloupe, Cte. (Frontenac), Quebec, mailing: 4516 Laval, Lac M'egantic, PQ Canada. Applicant's representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper machinery and parts*, from Ridgefield Park, N.J., to ports of entry on the international boundary lines between the United States and Canada located at Coburn Gore, Maine, restricted to traffic destined to Kingsey Falls, Quebec, for 150 days. Supporting shipper: Kingsey Falls Paper, Inc., Kingsey Falls, Quebec. Send protests to: District Supervisor Ross J. Seymour, Bureau of Operations, Interstate Commerce Commission, 424 Federal Building, Concord, N.H. 03301.

No. MC 126844 (Sub-No. 17 TA), filed September 25, 1972. Applicant: R. D. S. TRUCKING CO., INC., 1713 North Main Road, Vineland, NJ 08360. Applicant's representative: Terrence D. Jones, 1108 16th Street NW., Suite 400, Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and bottled foodstuffs*, from Cade and Lozes, La., to points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, Pennsylvania, Rhode Island, Virginia, and West Virginia, for 180 days. Supporting shipper: Bruce Foods Corp., New Iberia, La. Send protests to: Richard M. Regan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 428 East State Street, Room 204, Trenton, NJ 08608.

No. MC 134264 (Sub-No. 12 TA), filed September 27, 1972. Applicant: OCKENFEL'S TRANSFER, INC., 1301 Sheridan Avenue, Iowa City, IA 52240. Applicant's representative: Kenneth F. Dudley, Post Office Box 279, Ottumwa, IA 52501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Collapsible tubes, caps, and necks and materials, equipment, and supplies* used in the manufacture, processing, sale, and distribution of collapsible tubes, caps, and necks, between Iowa City, Iowa, and Cincinnati, Ohio, on the one hand, and, on the other, points in Michigan, New York, North Carolina, and Tennessee, for 180 days. Supporting shipper: Victor Metals Products Corp., Iowa City, Iowa, 52240. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 135561 TA, filed September 26, 1972. Applicant: N. E. FINCH CO., 1120 West Camp Street, East Peoria, IL 61611. Applicant's representative: Robert T. Lawley, 300 Reisch Building, 4 West Old State Capitol Plaza, Springfield, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Newsprint and groundwood paper*, from Peoria, Ill., to points in Illinois, restricted to traffic having a prior out-of-State movement by water or rail, for 180 days. Supporting shipper: G. C. Lessig, Assistant Traffic Manager, Nowaters Southern Paper Corp., Calhoun, Tenn. Send protests to: District Supervisor Richard K. Shullaw, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 136885 (Sub-No. 1 TA) (Correction), filed July 12, 1972, published in the FEDERAL REGISTER issue of August 4, 1972, corrected and republished in part as corrected this issue. Applicant: LEO PAUL GUAY, 4 Gosselin Street, St-Henry (Levis) PQ, Canada. Applicant's representative: Adrien R. Paquette, 200 Rue St-Jacques, Montreal 126, PQ. NOTE: The purpose of this partial republication is to include the States of Rhode Island and Connecticut as destination points, which were inadvertently omitted in previous publication. The rest of the application remains the same.

No. MC 136891 TA (Amendment), filed July 18, 1972, published in the FEDERAL REGISTER issues of August 4, 1972, and September 23, 1972, respectively, amended and republished as amended this issue. Applicant: STAN WATKINS TRUCKING, INC., 406 Fifth Avenue South, Shelby, MT 59474. Applicant's representative: Howard C. Burton, Post Office Box 2265, Great Falls, MT 59403. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages*, in bottles, cans, and kegs: (A) (1) From Theodore Hamm Brewing Co., San Francisco, Calif., and St. Paul, Minn., to Shelby, Mont.; (2) from Theodore Hamm Brewing Co., San Francisco, Calif., to Kalispell and Libby, Mont.; (B) from Ranier Brewing Co., Seattle, Wash., to Missoula, Great Falls, and Shelby, Mont.; (C) from Carling Brewing Co., Tacoma, Wash., to Libby, Kalispell, Shelby, and Great Falls, Mont.; (D) from Lucky Breweries, Inc., Vancouver, Wash., and San Francisco, Calif., to Shelby and Harve, Mont.; (E) from Pabst Brewing Co., Los Angeles, Calif., and Milwaukee, Wis., to Missoula, Mont.; (F) from Miller Brewing Co., Azusa, Calif., to Great Falls, Kalispell, and Libby, Mont.; (G) from Anhauser-Busch, Inc., Van Nuys, Calif., to Missoula, Shelby, and Harve, Mont.; (H) from Minneapolis Brewing Co. (Grain Belt), Minneapolis, Minn., to Missoula, Mont.; (I) from Jacob Schmidt Brewing Co., Minneapolis, Minn., to Missoula, Mont.; (J) from Heileman Brewing Co. (Old Style), La Crosse, Wis., to Shelby, Mont.; (K) from Joseph Schlitz Brewing Co., Milwaukee, Wis., to Shelby, Mont.; and (2) *carbonated beverages*, in bottles and cans, from Chico and Vista, Calif.; Portland and Eugene, Oreg., and Seattle and Yakima, Wash., to Missoula, Great Falls, Shelby, Harve, Kalispell, and Libby, Mont., and return movement of bottles, kegs, cans, and pallets, from all destination points specified above to all points or origin specified above, for 180 days. Supporting shippers: Gusto Distributors, Post Office Box 1213, Great Falls, MT 59403; Lee Distributors, Post Office Box 1194, Kalispell, MT 59901; Triple C Distributors, Post Office Box 489, Shelby, MT 59474; Havre Distributors, 935 First Avenue, Shelby, MT 59501; Shelby Distributors, 120 Central Avenue, Shelby, MT 59474; Zip Beverage, 938 Phillips Street, Missoula, MT 59801. Send protests to: Paul J. Labane, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 251 U.S. Post Office Building, Billings, Mont. 59101. NOTE: The purpose of this republication is to redescribe the commodity description, and to broaden the territorial scope.

No. MC 136960 (Sub-No. 1 TA), filed September 25, 1972. Applicant: A. B. CHANCEY and L. T. STEFFEY, doing business as CHEROKEE TRANSPORT, 13037 East Valley Boulevard, La Puente, CA 91744. Applicant's representative: Judge Herbert Cameron, 149 North Gramercy Place, Los Angeles, CA. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Including but not limited to meat, fresh, frozen, cooked, cured, or preserved and packinghouse products* more particularly set out in contract attached and made a part hereof, from Vernon, Calif., to Portland and Eugene, Oreg., Seattle, Tacoma, and Spokane, Wash., and within a 50-mile radius thereof, and from Tucson, Ariz., to Vernon, Calif., for 160 days. Supporting shipper: Farmer John Meats, 3049 East Vernon Avenue, Los Angeles, CA 90058. Send protests to: John E. Nance, Officer-in-Charge, Bureau of Operations, Interstate Commerce Commission, Room 7708 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 136998 TA (Amendment), filed August 25, 1972, published in the FEDERAL REGISTER issue of September 16, 1972, amended and republished as amended this issue. Applicant: KORAL SALES, INC., doing business as KSI, Route No. 2, Box 659, Kenosha, WI 53180. Applicant's representative: Jerry Seidman (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Furniture, lamps and parts for both, wrought iron, plastics, and general surplus commodities*, points between Paterson, N.J.; Chicago, Ill.; Kenosha and Milwaukee, Wis.; Los Angeles, San Francisco, and San Diego, Calif.; and port of entry United States-Mexico boundary at or near San Ysidro, Calif., and return over the same routes, for 180 days. Supporting shipper: Mex-Am Enterprises, Ltd., Route No. 2, Box 659, Kenosha, WI 53180 (Annette Seidman, president). Send protests to: District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203. NOTE: The purpose of this republication is to redescribe the territorial scope.

No. MC 138072 TA, filed September 29, 1972. Applicant: MAY TRUCKING COMPANY, INC., Allen, Ky. 41601. Applicant's representative: Francis P. Desmond, 115 East Fifth Street, Chester, PA 19013. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Nitro carbo nitrate*, from Allen, Ky., to points in Mingo and McDonell Counties, W. Va., and Buckingham, Dickenson, Russell, and Wise Counties, Va., for 180 days. Supporting shipper: Paul J. Keehan, Assistant Manager, Truck & Air Transportation Section, Traffic Department, E. I. du Pont de Nemours & Co., 1007 Market Street, Wilmington, DE 19801. Send protests to: R. W. Schneiter, District Supervisor, Interstate Commerce Commission, 222 Bakhaus Building, 1500 West Main Street, Lexington, KY 40505.

By the Commission.

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

[FR Doc.72-17683 Filed 10-16-72;8:51 am]

[Notice 141]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. 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 wth particularity.

No. MC-FC-73807. By order of September 27, 1972, the Motor Carrier Board, on reconsideration, approved the transfer to Warren Wilson, doing business as Warren Wilson Truck Lines, Stover, Mo., of Certificate No. MC-115623 (Sub-No. 4), subject to a restriction, originally issued to Gartin Truck Lines, Inc., Tuscumbia, Mo., authorizing the transportation of: General commodities, usual exceptions, between Tipton, Mo., and 20 miles thereof, and points in St. Clair County, Ill., in a radial movement. Thomas P. Rose, attorney, Post Office Box 205, Jefferson City, MO 65101.

No. MC-FC-73884. By order of September 27, 1972, the Motor Carrier Board approved the transfer to Elmer F. Stevens and Sandra M. Stevens, doing business as Stevens Stage Line, Nordland, Wash., of certificate of registration No. MC-99039 (Sub-No. 1) issued to Franklin McDowell, doing business as J. J. Lafferty Stage Line, 1726 Portland Street, Port Townsend, WA, evidencing a right of the holder thereof to engage in interstate or foreign commerce in the transportation of: Passenger and express service between specified points solely within the State of Washington.

No. MC-FC-73918. By order of September 28, 1972, the Motor Carrier Board approved the transfer to Carrol Morton, doing business as Morton Trucking, Brooklyn, N.Y., of permit No. MC-134647 (Sub-No. 1), issued February 8, 1972, to Mildred Mazza, doing business as Shepherd Transportation Co., Brooklyn, N.Y., authorizing the transportation of: Home furnishings, furniture, and giftware from points in the New York, N.Y., Harbor Limits, as defined, to Westbury and New Cassel, N.Y., restricted to shipments having an immediately prior movement by water, under contract with Ireb Import-Export. Arthur J. Piken, 1 Lefrak City Plaza, Flushing, NY 11368, attorney for applicants.

No. MC-FC-73932. By order entered September 27, 1972, the Motor Carrier Board approved the transfer to Harry L. Allison, Germantown, Ky., of the operating rights set forth in permit No. MC-127830, issued September 29, 1966, to Everett Phillips, Maysville, Ky., authorizing the transportation of such commodities as are dealt in by retail department stores, in retail delivery service, from Maysville, Ky., to points in Adama, Brown, Clermont, Highland, and Scioto Counties, Ohio, restricted to a transportation service to be performed under a continuing contract or contracts with Montgomery Ward & Co., of Chicago, Ill. George M. Catlett, 703-706 McClure Building, Frankfort, Ky. 40601, attorney for applicants.

No. MC-FC-73942. By order entered September 29, 1972, the Motor Carrier Board approved the transfer to Barnett Bros., Inc., Henderson, Ky., of the operating rights set forth in certificates Nos. MC-124951, MC-124951 (Sub-No. 26), and MC-124951 (Sub-No. 30), issued by the Commission November 8, 1965, February 24, 1969, and June 3, 1969, respectively, to Wathen Transport, Inc., Henderson, Ky., authorizing the transportation of: Precast and prestressed concrete products from Henderson, Ky., to points in Indiana, Illinois, Kentucky, Missouri, Georgia, and West Virginia. George M. Catlett, 703-706 McClure Building, Frankfort, Ky. 40601, attorney for applicants.

No. MC-FC-73960. By order entered September 27, 1972, the Motor Carrier Board approved the transfer to Oil Transport Co., a Nevada corporation, Abilene, Tex., of the operating rights set forth in certificates Nos. MC-111740 (Sub-No. 1), MC-111740 (Sub-No. 6), MC-111740 (Sub-No. 7), MC-111740 (Sub-No. 8), MC-111740 (Sub-No. 11), MC-111740 (Sub-No. 15), MC-111740 (Sub-No. 17), MC-111740 (Sub-No. 19), MC-111740 (Sub-No. 21), MC-111740 (Sub-No. 22), MC-111740 (Sub-No. 23), and MC-111740 (Sub-No. 26), issued by the Commission June 24, 1970, September 16, 1958, August 29, 1960, April 5, 1961, December 24, 1963, October 7, 1964, December 14, 1965, December 28, 1966, September 21, 1967, December 27, 1968, and April 3, 1969, respectively, in the name of Oil Transport Co., a Texas corporation, Abilene, Tex., authorizing the transportation of various specified commodities from, to, or between points in Arizona, Arkansas, Colorado, Kansas, Missouri, New Mexico, Oklahoma, and Texas. Jerry C. Prestridge, Post Office Box 1148, Austin, TX 78767, attorney for applicants.

No. MC–FC–73961. By order of September 27, 1972, the Motor Carrier Board approved the transfer to Gypsum Transport, Inc., a Delaware corporation, Abilene, Tex., of the operating rights in certificate No. MC–126421 (Sub-No. 4) issued December 2, 1969, to Gypsum Transport, Inc., a Texas corporation, Abilene, Tex., authorizing the transportation of: Building materials, except lumber, gypsum and gypsum products, and materials and supplies used in the manufacture, installation, and distribution thereof, except commodities in bulk, between the plantsite and facilities of United States Gypsum Co., at or near Sweetwater, Tex., on the one hand, and, on the other, points in Alabama, Arizona, Arkansas, Colorado, Florida, Georgia, Iowa, Kansas, Louisiana, Mississippi, Missouri, New Mexico, Nebraska, Oklahoma, and Tennessee. Jerry C. Prestridge, Post Office Box 1148, Austin, TX 78767, attorney for applicants.

No. MC–FC–73967. By order entered September 29, 1972, the Motor Carrier Board approved the transfer to Gasoline Alley 25 Hour Towing, Inc., Phoenix, Ariz., of the operating rights set forth in certificate No. MC–116305, issued September 27, 1957, to Clyde Martin, doing business as Clyde Martin Service, Phoenix, Ariz., authorizing the transportation of wrecked and disabled vehicles, by use of wrecker equipment only, between Phoeniz, Ariz., on the one hand, and, on the other, points in California, New Mexico, Utah, and Nevada, Donald E. Fernaays, 4040 East McDowell Road, Suite 312, Phoenix, AZ 85008, practitioner for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR. Doc.72–17684 Filed 10–1672;8:51 am]

CUMULATIVE LIST OF PARTS AFFECTED—OCTOBER

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during October.

3 CFR

	Page
PROCLAMATIONS:	
4160	20665
4161	20931
4162	21411
4163	21413
4164	21415
4165	21417
4166	21419
4167	21901
4168	21903
EXECUTIVE ORDERS:	
11671 (amended and superseded by EO 11686)	21421
11686	21421
11687	21479

4 CFR

	Page
PROPOSED RULES:	
331	21177
404	20956

5 CFR

	Page
175	21925
213	21149, 21481
890	20667
2411	20668
2470	20671
2471	20671

6 CFR

	Page
101	20949
201	21306
202	21306
300	20828, 21440, 21943
305	20950
Rulings	20829–20837, 21481

7 CFR

	Page
51	21423
52	21155
864	21795
874	21533
905	21799
906	21800, 21801
908	20933, 21307, 21536, 21802
910	21157, 21308, 21802
912	21308
928	21537
944	21802
966	21423
980	21424
987	21537
1040	20804
1043	20804
1801	21425
1832	21158
1861	21425
1890n	21425
PROPOSED RULES:	
58	21331
319	21444
722	20721, 21642
724	21950
725	21443
728	21642
729	21853
730	21173, 21642, 21643
775	21332, 21642
811	21333
906	21947
911	20951
929	20867, 21538
982	21442
984	21443
989	21538
991	21539
999	21538
1032	21171
1050	20952, 21171
1062	21171, 21641
1064	21171
1065	21171
1071	21821
1073	21821
1097	21821
1099	21332
1102	21821
1104	21821
1106	21821, 21947
1108	21821
1120	21821
1126	21821
1127	21821
1128	21821
1129	21821
PROPOSED RULES—Continued	
1130	21821
1132	21821
1133	21539
1138	21821
1139	20867
1421	21174, 21335
1464	21956
1701	20867, 20952

9 CFR

	Page
56	21925
76	20805, 20933, 21277, 21621
82	21427
92	21149, 21804
94	21149
301	21926
312	21926
327	21927

10 CFR

	Page
PROPOSED RULES:	
20	21652
170	20871

12 CFR

	Page
1	21622
225	20673, 21938
PROPOSED RULES:	
545	21178
561	21179
563	21179

13 CFR

	Page
302	21154
PROPOSED RULES:	
308	21646

14 CFR

	Page
23	21320
27	21320
39	20673, 21320, 21527, 21528, 21626–21628, 21928
47	21528

14 CFR—Continued

Page

71 ... 20674, 20806, 20807, 20934, 21160, 21321, 21427, 21528–21530, 21628, 21804, 21805, 21928–21930
75 ... 20807, 21160, 21530
91 ... 20934
95 ... 21930
97 ... 20935, 21628
121 ... 20936
169 ... 21321
Ch. II ... 20807
207 ... 20674
208 ... 20674
212 ... 20674, 20807
214 ... 20675, 20807
217 ... 20675
239 ... 21161
241 ... 20676
249 ... 20676, 20808
297 ... 21805
372a ... 20808
389 ... 21806
405 ... 21162

PROPOSED RULES:

39 ... 21444
71 ... 20727, 20871, 20952–20955, 21160, 21174 21175, 21542, 21651, 21853–21856, 21957, 21958
73 ... 21543, 21651, 21856
91 ... 20955
207 ... 21347
208 ... 21347
212 ... 21347
214 ... 21347
239 ... 21175

15 CFR

371 ... 21309
373 ... 21309
376 ... 21310
911 ... 21806

16 CFR

13 ... 21312, 21313, 21315–21318, 21932–21936
600 ... 21319

PROPOSED RULES:

303 ... 21653

17 CFR

211 ... 20937
231 ... 20937
241 ... 20937
251 ... 20937
271 ... 20937

PROPOSED RULES:

239 ... 21445
240 ... 21447, 21958
249 ... 21445

18 CFR

PROPOSED RULES:

2 ... 21181
101 ... 21181
104 ... 21181
201 ... 21181
204 ... 21181
260 ... 21544
801 ... 21355

19 CFR

Page

11 ... 20678
12 ... 21804
24 ... 20678
133 ... 20678

PROPOSED RULES:

22 ... 20951

20 CFR

405 ... 21162, 21428, 21630
722 ... 21429

21 CFR

3 ... 21481, 21630
19 ... 20937
37 ... 21481
51 ... 21807
121 ... 21150, 21151, 21278, 21905
135 ... 21630, 21808
135a ... 20938, 21905
135b ... 20938, 20939, 21429, 21631, 21632, 21808, 21905
135c ... 20683, 20939, 21631, 21906
135e ... 20683, 20939, 21279
135f ... 21808
135g ... 20683
141 ... 21302
148i ... 21809, 21906
148n ... 21809
148p ... 21809
148z ... 21302
164 ... 20685
295 ... 21632, 21633, 21635

PROPOSED RULES:

10 ... 21102
26 ... 21103
50 ... 21106
51 ... 21112
135 ... 21174
141 ... 20870, 21344
141c ... 21344
146c ... 21344
148f ... 21347
149q ... 21344
150d ... 21344

22 CFR

41 ... 21637

23 CFR

1 ... 21430, 21809

24 CFR

1914 ... 20940, 21433, 21937
1915 ... 21434, 21938

25 CFR

503 ... 21938

PROPOSED RULES:

161 ... 21947

26 CFR

1 ... 20686, 20688, 20767, 20799, 21434, 21907
201 ... 21637

PROPOSED RULES:

1 ... 20700, 20719, 20853
49 ... 21818
170 ... 21330
201 ... 20838
250 ... 21330
251 ... 21330
301 ... 20700, 21442, 21818
601 ... 21818

29 CFR

Page

1 ... 21138
5 ... 21138
55 ... 21165
101 ... 21481
102 ... 21481
103 ... 21939
1904 ... 20822, 20823
1913 ... 21303

PROPOSED RULES:

1902 ... 20728

30 CFR

75 ... 20689

PROPOSED RULES:

75 ... 21641

32 CFR

1 ... 21482
2 ... 21484
3 ... 21484
4 ... 21490
5 ... 21490
6 ... 21491
7 ... 21492
8 ... 21508
9 ... 21509
12 ... 21514
13 ... 21515
14 ... 21516
15 ... 21516
16 ... 21519
18 ... 21521
19 ... 21524
23 ... 21524
24 ... 21525
26 ... 21525
30 ... 21526
818a ... 20823
824 ... 20825
1301 ... 20942
1302 ... 20942
1472 ... 20690
1477 ... 20690

PROPOSED RULES:

1611 ... 21544
1623 ... 21544
1624 ... 21544
1626 ... 21544
1627 ... 21544
1660 ... 21653

33 CFR

1 ... 21481
72 ... 20693
92 ... 21151
173 ... 21396
174 ... 21396

PROPOSED RULES:

117 ... 21853
175 ... 21262
209 ... 21818

38 CFR

3 ... 21436

39 CFR

PROPOSED RULES:

123 ... 21641

40 CFR

Page

115 ... 21441
123 ... 21441
180 ... 20825, 21151, 21152, 21278

PROPOSED RULES:

60 ... 21653
85 ... 20914

41 CFR

1–1 ... 20693
1–3 ... 20693
1–15 ... 20693
5A–1 ... 20693
9–7 ... 21322
9–16 ... 21322
9–53 ... 21322
15–4 ... 21637
101–26 ... 20940
101–32 ... 20941
114–51 ... 20941

PROPOSED RULES:

60–1 ... 20870
101–19 ... 20958

42 CFR

57 ... 21939

43 CFR

PUBLIC LAND ORDERS:

1985 (see PLO 5263) ... 20942
2334 (revoked in part by PLO 5264) ... 21638
5263 ... 20942
5264 ... 21638

45 CFR

Page

Ch. I ... 21945
116 ... 20760
131 ... 21436
177 ... 20699
701 ... 21152
1068 ... 21437
1069 ... 21438

46 CFR

31 ... 20826, 21816
71 ... 20626
91 ... 20826
171 ... 21404
172 ... 21404
173 ... 21404
280 ... 21323

PROPOSED RULES:

24 ... 21264
25 ... 21264
160 ... 21266
390 ... 21335
Ch. IV ... 21184

47 CFR

73 ... 21324
97 ... 21325

PROPOSED RULES:

2 ... 20872, 21352
21 ... 21543
73 ... 20874, 21353, 21543, 21857
76 ... 21857
81 ... 20729
83 ... 20729
87 ... 20872

49 CFR

Page

1 ... 21816, 21943
172 ... 21638
177 ... 21531
192 ... 20694, 20826, 21638, 21816
393 ... 21439
555 ... 20943
571 ... 20695, 21328
1005 ... 20943
1033 ... 20827, 21153, 21532
1201 ... 20696
1202 ... 20696
1204 ... 20697
1205 ... 20697
1206 ... 20697
1207 ... 20698
1208 ... 20698
1209 ... 20698
1210 ... 20699
1249 ... 20944

PROPOSED RULES:

173 ... 21857
178 ... 21857
571 ... 20956, 21652

50 CFR

10 ... 20699, 21532
32 ... 20828, 20944, 20948, 20949, 21329, 21436, 21639, 21640

FEDERAL REGISTER PAGES AND DATES—OCTOBER

Pages	*Date*	*Pages*	*Date*
20659–20760	Oct. 3	21405–21471	Oct. 11
20761–20923	4	21473–21614	12
20925–21142	5	21615–21787	13
21143–21270	6	21789–21894	14
21271–21404	7	21895–21980	17