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# Rules and Regulations

## Title 7—AGRICULTURE

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

#### SUBCHAPTER C—SPECIAL PROGRAMS

[Amdt. 8]

### PART 777—PROCESSOR WHEAT MARKETING CERTIFICATE REGULATIONS

#### Refund Rate

On page 8155 of the FEDERAL REGISTER of April 30, 1971, there was published a notice of proposed rule making to issue Amendment 8 to the Republication of the Processor Wheat Marketing Certificate Regulations, as amended (33 F.R. 14676, 34 F.R. 5817, 6907, 11412, 13522, 19063, 35 F.R. 11689, 36 F.R. 7657). This amendment provides a rate for refunds of the certificate cost for wheat used in processing flour second clears not used for human consumption to cover the period July 1, 1971, through June 30, 1974.

The refund rate is determined on the basis of the most recent available industry average extraction rate which was obtained through a departmental survey made in connection with wheat processed during the 1969-70 marketing year. In the absence of more recent data, it has been determined that continuation of the existing rate is warranted. Accordingly, the amendment as proposed in 36 F.R. 8155 is issued to extend the current refund rate applicable to flour second clears not used for human consumption through the marketing year beginning July 1, 1973.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed amendment. No objections or comments have been received, and the proposed amendment is hereby adopted without change effective as set forth below.

**Effective date.** The extension of the refund rate shall be effective with respect to flour second clears processed on and after July 1, 1971.

Signed at Washington, D.C., on June 1, 1971.

CARL C. FARRINGTON,  
Acting Administrator, Agricultural Stabilization and Conservation Service.

Section 777.19(e) is amended by changing the penultimate sentence to read as follows:

§ 777.19 Industrial users of flour second clears.

(e) *Refund rate.* \* \* \* The refund rate for the marketing years covered by

the period beginning July 1, 1970, through June 30, 1974, shall be \$1.67 per hundredweight, which was determined on the basis of a conversion factor of 2.230 multiplied by the applicable certificate cost rounded to the nearest cent. \* \* \*

[FR Doc.71-7965 Filed 6-7-71;8:48 am]

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

[Valencia Orange Reg. 350, Amdt. 1]

### PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

#### Limitation of Handling

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908, 35 F.R. 16625), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendation and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; and this amendment relieves restriction on the handling of Valencia oranges grown in Arizona and designated part of California.

(b) *Order, as amended.* The provisions in paragraph (b) (1) (i), (ii), and (iii) of § 908.650 (Valencia Reg. 350; 36 F.R. 9633) during the period May 28, 1971, through June 3, 1971, are hereby amended to read as follows:

§ 908.650 Valencia Orange Regulation 350.

(b) \* \* \*  
(1) \* \* \*  
(i) District 1: 323,000 cartons;

(ii) District 2: 491,000 cartons;  
(iii) District 3: 110,713 cartons.

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

Dated: June 2, 1971.

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

[FR Doc.71-7335 Filed 6-7-71;8:46 am]

[Lemon Reg. 482, Amdt. 1]

### PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

#### Limitation of Handling

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of lemons grown in California and Arizona.

(b) *Order, as amended.* The provisions in paragraph (b) (1) (ii) of § 910.782 (Lemon Reg. 482; 36 F.R. 9843) during the period May 30 through June 5, 1971, are hereby amended to read as follows:

§ 910.782 Lemon Regulation 482.

(b) \* \* \*  
(1) \* \* \*  
(ii) District 2: 275,000 cartons.

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

Dated: June 2, 1971.

PAUL A. NICHOLSON,  
Deputy Director, Fruit and Veg-  
etable Division, Consumer and  
Marketing Service.

[FR Doc.71-7934 Filed 6-7-71;8:46 am]

[Cherry Reg. 10]

## PART 923—SWEET CHERRIES GROWN IN DESIGNATED COUNTIES IN WASHINGTON

### Limitation of Shipments

On May 22, 1971, notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 9314) that consideration was being given to the following proposal, as hereinafter set forth, which would limit the handling of sweet cherries grown in designated counties in Washington by establishing regulations, pursuant to the order which was recommended by the Washington Cherry Marketing Committee, established pursuant to the marketing agreement and Order No. 923 (7 CFR Part 923), regulating the handling of sweet cherries grown in designated counties in Washington. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the recommendation and information submitted by the Washington Cherry Marketing Committee (established pursuant to the marketing agreement and order), and other available information, it is hereby found and determined that § 923.314 *Cherry Regulation 10*, as hereinafter set forth, is in accordance with the provisions of the said marketing agreement and order and will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this regulation until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) notice of proposed rule making concerning this regulation, with an effective date of June 7, 1971, was published in the FEDERAL REGISTER on May 22, 1971 (36 F.R. 9314), and no objection to this regulation or such effective date was received; (2) the recommendation and supporting information for regulation during the period specified herein were submitted to the Department after an open meeting of the Washington Cherry Marketing Committee on May 13, 1971, which was held to consider recommendations for regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; (3) the provisions of this regulation, including the effective time hereof, are identical with the aforesaid recommendation of the committee; (4) information concerning such provisions and effective time has

been disseminated among handlers of such cherries; (5) compliance with this regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof; (6) shipments of the current crop of such cherries are expected to begin on or about the effective date hereof, and this regulation should be applicable, insofar as practicable, to all shipments of such cherries in order to effectuate the declared policy of the act.

The recommendations by the Washington Cherry Marketing Committee reflect its appraisal of the crop and current and prospective market conditions. Shipments of sweet cherries from the production area are expected to begin on or about June 7, 1971. The grade and size requirements provided herein are necessary to prevent the handling, on and after June 7, 1971, of any cherries grading lower than the grade herein specified, and smaller in size than as herein specified, so as to provide consumers with good quality fruit, consistent with the overall quality of the crop, while maximizing returns to the producers pursuant to the declared policy of the act. The requirements herein that pertain to containers and the packaging of cherries in faced packs and any packs of 20 pounds, net weight, or larger, are designed to prevent deceptive packaging practices, promote buyer confidence, and maintain the integrity of the Washington sweet cherry industry. Individual shipments, not exceeding 100 pounds, of cherries sold for home use and not for resale, subject to necessary safeguards, are expected from these requirements in that the quantity of cherries so handled is relatively inconsequential when compared with the total quantity handled, and because it would be administratively impractical to regulate the handling of such shipments due to the nearness to the source of supply.

### § 923.310 Cherry Regulation 10.

(a) *Order.* (1) During the period June 7, 1971, through May 31, 1972, no handler shall, except as provided in subparagraph (2) of this paragraph, handle any lot of cherries unless such cherries meet each of the following applicable requirements:

(i) *Minimum grade.* U.S. No. 1: *Provided*, That the following tolerances, by count of the cherries in the lot, shall apply in lieu of the tolerances for defects provided in the U.S. Standards for Grades of Sweet Cherries: A total of 10 percent for defects, including in this amount not more than 5 percent by count of the cherries in the lot, for serious damage, and including in this latter amount, not more than 1 percent by count of the cherries in the lot, for cherries affected by decay: *Provided further*, That the contents of individual packages in the lot are not limited as to the percentage of defects but the total of the defects of the entire lot shall be within the tolerances specified.

(ii) *Minimum size.* At least 95 percent, by count of the cherries in the lot, shall measure not less than forty-eight sixty-fourths in diameter.

(iii) *Faced packs and any packs of 20 pounds, net weight, or larger.* At least 90 percent, by count of the cherries in the lot, shall measure not less than fifty-four sixty-fourths inch in diameter.

(iv) *Containers.* The net weight of the cherries in any container having a capacity greater than that of a container with inside dimensions of 15½ by 10½ by 4 inches shall be not less than 20 pounds; and no container of cherries shall contain less than 12 pounds, net weight, of cherries.

(2) *Exceptions.* Notwithstanding any other provisions of this section, any individual shipment of cherries which meets each of the following requirements may be handled without regard to the provisions of this paragraph, of § 923.41 (Assessments), and of § 923.55 (Inspection and Certification):

(i) The shipment consists of cherries sold for home use and not for resale;

(ii) The shipment does not, in the aggregate, exceed 100 pounds, net weight, of cherries; and

(iii) Each container is stamped or marked with the words "not for resale" in letter at least one-half inch in height.

(b) *Definitions.* (1) Terms used in the marketing agreement and order shall, when used herein, have the same meaning as given to the respective term in said marketing agreement and order;

(2) "U.S. No. 1" and "diameter" shall have the same meaning as when used in the U.S. Standards for Grades of Sweet Cherries (secs. 51.2646-51.2660; 36 F.R. 8502); and

(3) "Faced pack" means that the cherries in the top layer in any container are so placed that the stem ends are pointing downward toward the bottom of the container.

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

Dated: June 3, 1971.

PAUL A. NICHOLSON,  
Deputy Director, Fruit and Veg-  
etable Division, Consumer and  
Marketing Service.

[FR Doc.71-8006 Filed 6-4-71;12:35 pm]

## Title 9—ANIMALS AND ANIMAL PRODUCTS

### Chapter I—Agricultural Research Service, Department of Agriculture

#### SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

[Docket No. 71-569]

### PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

#### Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2,

1962 (21 U.S.C. 111-113, 114g, 115, 117, 120, 121, 123-126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

In § 76.2, in paragraph (e) (4) relating to the State of North Carolina, subdivision (iv) relating to Sampson County is deleted.

(Secs. 4-7, 23 Stat. 32, as amended, secs. 1 and 2, 32 Stat. 791-792, as amended, secs. 1-4, 33 Stat. 1264, 1265, as amended, sec. 1, 75 Stat. 481, secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111, 112, 113, 114g, 115, 117, 120, 121, 123-126, 134b, 134f; 29 F.R. 16210, as amended)

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

The amendment excludes a portion of Sampson County, N.C., from the areas quarantined because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will not apply to the excluded area, but will continue to apply to the quarantined areas described in § 76.2 (e). Further, the restrictions pertaining to the interstate movement of swine and swine products from nonquarantined areas contained in said Part 76 will apply to the excluded area. No areas in Sampson County, N.C., remain under the quarantine.

The amendment relieves certain restrictions presently imposed but no longer deemed necessary to prevent the spread of hog cholera, and must be made effective immediately to be of maximum benefit to affected persons. It does not appear that public participation in this rule making proceeding would make additional relevant information available to this Department. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 3d day of June 1971.

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

[FR Doc.71-7966 Filed 6-7-71; 8:48 am]

## Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 11114; Amdt. No. 759]

### PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

#### Recent Changes and Additions

This amendment to Part 97 of the Federal Aviation Regulations incorporates

by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAPs) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAPs for the changes and additions covered by this amendment are described in FAA Forms 3139, 3260-3, 3260-4, or 3260-5 and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97-696 (35 F.R. 5610).

SIAPs are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20590. Copies of SIAPs adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAPs may be purchased from the FAA Public Document Inspection Facility, HQ-405, 800 Independence Avenue SW., Washington, DC 20590, or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft, or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of \$125 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.21 is amended by establishing, revising, or canceling the following L/MF SIAPs, effective July 1, 1971.

Delta Junction, Alaska—Allen AAF; LFR-A, Amdt. 11; Revised.

2. Section 97.23 is amended by establishing, revising, or canceling the following VOR-VOR/DME SIAPs, effective July 1, 1971.

Alamosa, Colo.—Alamosa Municipal Airport; VOR-1, Amdt. 3; Canceled.

Alamosa, Colo.—Alamosa Municipal Airport; VOR-A, Original; Established.

Bethel, Alaska—Bethel Municipal Airport; VOR Runway 18, Amdt. 0; Revised.

Bethel, Alaska—Bethel Municipal Airport; VOR Runway 38, Amdt. 6; Revised.

Columbus, Miss.—Golden Triangle Regional Airport; VOR-A, Original; Established.

Culpeper, Va.—Culpeper Municipal Airport; VOR-A, Original; Established.

Elko, Nev.—Elko Municipal Airport; VOR-A, Amdt. 1; Revised.

Galena, Alaska—Galena Airport; VOR Runway 25, Amdt. 6; Revised.

Hot Springs, Ark.—Memorial Field; VOR Runway 5, Amdt. 8; Revised.

Huron, S. Dak.—W. W. Howes Municipal Airport; VOR Runway 12, Amdt. 12; Revised.

Minneapolis, Minn.—Flying Cloud Airport; VOR Runway 9L, Amdt. 5; Revised.

Minneapolis, Minn.—Flying Cloud Airport; VOR Runway 38, Amdt. 1; Revised.

Oakland, Md.—Garrett County Airport; VOR Runway 26, Original; Established.

Phillip, S. Dak.—Phillip Airport; VOR-A, Amdt. 6; Revised.

Racine, Wis.—Horlick-Racine Airport; VOR Runway 22, Amdt. 1; Revised.

West Point, Miss.—McCharen Field; VOR-A, Original; Established.

Alamosa, Colo.—Alamosa Municipal Airport; VOR/DME-1, Original; Canceled.

Alamosa, Colo.—Alamosa Municipal Airport; VOR/DME-A, Original; Established.

Cloquet, Minn.—Cloquet Carlton County Airport; VOR/DME-A, Amdt. 2; Revised.

Columbus, Miss.—Golden Triangle Regional Airport; VOR/DME-A, Original; Established.

Elko, Nev.—Elko Municipal Airport; VOR/DME-A, Original; Established.

Galena, Alaska—Galena Airport; VORTAC Runway 7, Amdt. 3; Revised.

Marlin, Tex.—Marlin Airport; VOR/DME-A, Amdt. 1; Revised.

Ruston, La.—Ruston Municipal Airport; VOR/DME-A, Amdt. 3; Revised.

Sioux City, Iowa—Sioux City Municipal Airport; VORTAC Runway 31, Amdt. 15; Revised.

3. Section 97.25 is amended by establishing, revising, or canceling the following LOC-LDA SIAPs, effective July 1, 1971.

Fort Worth, Tex.—Greater Southwest International/Dallas-Fort Worth Field; LOC (BC) Runway 31, Amdt. 16; Revised.

Huron, S. Dak.—W. W. Howes Municipal Airport; LOC (BC)/DME Runway 30, Original; Established.

Sioux City, Iowa—Sioux City Municipal Airport; LOC (BC) Runway 13, Amdt. 10; Revised.

4. Section 97.27 is amended by establishing, revising or canceling the following NDB/ADF SIAPs, effective July 1, 1971.

Cloquet, Minn.—Cloquet Carlton County Airport; NDB Runway 17, Original; Established.

Cloquet, Minn.—Cloquet Carlton County Airport; NDB Runway 35, Original; Established.

Galena, Alaska—Galena Airport; NDB-A, Amdt. 13; Revised.

Grand Junction, Colo.—Walker Field; NDB Runway 11, Amdt. 6; Revised.

Hot Springs, Ark.—Memorial Field; NDB Runway 5, Amdt. 1; Revised.

Huron, S. Dak.—W. W. Howes Municipal Airport; NDB Runway 12, Amdt. 12; Revised.

Juneau, Wis.—Dodge County Airport; NDB Runway 2, Amdt. 2; Revised.

Juneau, Wis.—Dodge County Airport; NDB Runway 20, Original; Established.

Miami, Fla.—Dade-Collier Training and Transition Airport; NDB Runway 9, Amdt. 2; Revised.

Platteville, Wis.—Platteville Municipal Airport; NDB Runway 25; Original; Established.

Racine, Wis.—Horlick-Racine Airport; NDB Runway 22, Amdt. 7; Revised.

Sioux City, Iowa—Sioux City Municipal Airport; NDB Runway 31, Amdt. 15; Revised.

5. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAPs, effective July 1, 1971.

Hot Springs, Ark.—Memorial Field; ILS Runway 5, Amdt. 1; Revised.

Huron, S. Dak.—W. W. Howes Municipal Airport; ILS Runway 12, Amdt. 14; Revised.

Miami, Fla.—Dade-Collier Training and Transition Airport; ILS Runway 9, Amdt. 2; Revised.

Sioux City, Iowa—Sioux City Municipal Airport; ILS Runway 31, Amdt. 16; Revised.

6. Section 97.31 is amended by establishing, revising, or canceling the following Radar SIAPs, effective July 1, 1971.

Atlanta, Ga.—Fulton County Airport; Radar-1, Amdt. 3; Revised.

Galena, Alaska—Galena Airport; Radar-1, Amdt. 3; Revised.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958; 49 U.S.C. 1438, 1354, 1421, 1510, sec. 6(c) Department of Transportation Act, 49 U.S.C. 1655(c) and 5 U.S.C. 552(a) (1) )

Issued in Washington, D.C., on May 25, 1971.

R. S. SLIFF,  
Acting Director,  
Flight Standards Service.

NOTE: Incorporation by reference provisions in §§ 97.10 and 97.20 (35 F.R. 5610) approved by the Director of the Federal Register on May 12, 1969.

[FR Doc. 71-7855 Filed 6-7-71; 8:50 am]

## Title 21—FOOD AND DRUGS

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

#### SUBCHAPTER A—GENERAL

#### PART 1—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT AND THE FAIR PACKAGING AND LABELING ACT

#### PART 3—STATEMENTS OF GENERAL POLICY OR INTERPRETATION

##### SUBCHAPTER C—DRUGS

#### PART 130—NEW DRUGS

#### PART 146—ANTIBIOTIC DRUGS; PROCEDURAL AND INTERPRETATIVE REGULATIONS

#### Disclosure of NAS-NRC Drug Efficacy Study Group Evaluations in Drug Labeling and Advertising

In the FEDERAL REGISTER of October 7, 1970 (35 F.R. 15761), a notice was published proposing amendments to Parts 3, 130, and 146 to require disclosure in drug labeling and advertising of drug evaluations made for the Food and Drug Administration by the National Academy of Sciences-National Research Council, Drug Efficacy Study Group. The notice provided for the filing of comments within 30 days and this was extended to December 6, 1970, by a notice published November 7, 1970 (35 F.R. 17191).

The response was divided. The Pharmaceutical Manufacturers Association, the Proprietary Association, 11 pharmaceutical manufacturers, a pharmaceutical advertising representative, and an individual objected to the proposal. The American Pharmaceutical Association, the American Public Health Association, the National Council of Senior Citizens, and a consumer advocate supported it.

The objections are summarized as follows:

1. *Legal objections:* Nothing in the Federal Food, Drug, and Cosmetic Act authorizes such regulations; requirements of the sort proposed cannot be imposed upon prescription drug advertising without formal procedures in which the pharmaceutical manufacturers could demand a hearing; the proposed policy statement is inconsistent with the implementation plan for the NAS-NRC review previously announced; and this is an unwarranted effort by the Food and Drug Administration to cast the burden of proof on the drug companies.

2. *Policy objections:* Requiring disclosure of NAS-NRC panel findings before their full and final implementation would be a disservice to the medical profession and to pharmaceutical manufacturers because:

a. It would not help the prescribing physician and might even increase his vulnerability to liability for medical malpractice.

b. The panel findings are not authoritative but only advisory and may have been arrived at by a split vote or compromise.

c. Inconsistent judgmental criteria were applied among the panels.

d. When the panels evaluated a drug as "possibly" or "probably" effective, "effective but," or even "ineffective," this was actually a finding that the drug was effective but that the quality of the data to so prove it was inadequate.

The Commissioner of Food and Drugs concludes as follows:

1. There is no legal infirmity in the proposal. It is based upon the requirement both in the act and in the prescription drug advertising regulations that misleading promotional practices must be avoided. The failure to reveal the NAS-NRC findings in any advertising and labeling that claims effectiveness for drugs that have been evaluated as less than effective by these expert panels is the failure to reveal a highly material fact. The NAS-NRC Drug Efficacy Study has been an audit of the state of the art of drug effectiveness concerned with about 80 percent of the drugs currently available. It is material to inform the medical profession of the results of the study in terms of specific drug evaluations at the earliest practicable time, which is the time of the announcement of the panel report, and to require the incorporation of the new information into promotional material as soon thereafter as possible.

2. There is no basis for contending that the panels did not speak for the NAS-NRC. While the policy boards of NAS-NRC did not review each and every panel report and concur in it, the panel members were selected by the policy boards and their reports were officially transmitted to FDA as a NAS-NRC product. The final report of the Academy on the Study explains what has been done and how.

3. No shift of burden of proof is involved. The burden of supporting claims of effectiveness by appropriate medical

proof is at all times upon sponsors of drugs. There is no real hardship in bringing the prescribers in on the fact that the medical data base upon which a claim of effectiveness is being made does not satisfy the requirements of adequate and well-controlled clinical investigations. Nor is there a conflict with the previously announced implementation plan for the NAS-NRC Drug Efficacy Study. FDA has made the judgment to allow additional time for the development of substantial medical data that will classify a drug evaluated as "probably effective" or "possibly effective" as either effective or ineffective. No prejudice of the final outcome of ongoing or planned clinical trials is involved in a decision to require a disclosure of the deficiencies in the existing medical data while the definitive clinical trials are underway. It is indefensible to claim effectiveness for a drug while that issue is up for resolution by a planned or ongoing clinical trial. The very least that should be required in such cases is full disclosure of the facts to the prescriber of prescription items.

4. The NAS-NRC panel reports are expressions of medical judgment based upon the best data the companies could submit in support of their promotional claim, together with any other data the panelists could draw together from the FDA, the literature, or from expert consultants. They represent the most authoritative opinions currently available as to the validity of claims of drug effectiveness.

5. At the outset of this efficacy study, the FDA required a special report from each drug manufacturer of the best available data, reported or unreported, to support the claims of effectiveness being made for products under review. These reports served as the starting point for the NAS-NRC reviews. In the final report, NAS-NRC noted that the quality of the data submitted was poor (often being testimonial type reports), but despite the lack of definitive medical evidence judgments were reached. Contrary to the assertions in the objections, a finding of "probably effective" and "possibly effective" was not a finding that the drug would be effective. It was in the case of "possibly effective" a finding that there is little scientific evidence to support the claims, but that further study is justified to validate the claims. In the case of a "probably effective" finding, this was a conclusion that some evidence of effectiveness exists but that further study is required before it can be said with assurance that the drug will work as claimed.

6. There is no reason why these judgments should not be shared with the medical profession in drug promotional material. The only effect this might have on product liability and malpractice would be to publicly recognize the data deficiencies and raise questions about why the drug is being promoted on such data. But full disclosure of this fact should lead to better patient care, rather than worse, and to better understanding

by the physician of the drugs he prescribes.

7. FDA does not agree with the contention that release of the NAS-NRC findings will not assist the prescribing physician. Those responsible for drug purchasing at the Federal level have informed their drug users of the NAS-NRC findings of ineffectiveness and plans are underway to issue "possibly" and "probably" effective lists. This information should be available to anyone who is making a drug choice for his patient.

8. It is contended that some manufacturers will be discriminated against if forced to make a negative disclosure for their drugs before announcements are made about competitive drugs with the same deficiencies, and that firms seeking to validate claims evaluated as less than effective would be disadvantaged by competition from firms that simply dropped the questionable claim to obviate the disclosure. FDA is expediting the publication of all NAS-NRC reports to minimize the competitive disadvantages.

9. While there was objection by two firms to the box arrangement of this disclosure, this is regarded as essential for this particular communication problem.

10. The elimination of claims evaluated as other than effective will not require an affirmative disclosure.

Having evaluated all the comments, the Commissioner further concludes (a) that the requirement to include in the labeling and advertising of a prescription drug an authoritative conclusion regarding its usefulness is clearly within the authority and intent of the law to assure that the prescriber has adequate information on the drug for its safe and effective use, (b) that the requirement of disclosure of the Drug Efficacy Study evaluations in labeling and advertising should be limited to prescription drugs at this time (FDA is reconsidering the NAS-NRC implementation procedures for over-the-counter drugs and the requirements will be covered by a separate publication), (c) that reminder advertisements should not be used for drugs without a claim evaluated as higher than possibly effective, and (d) that the proposal, with changes, should be adopted as set forth below.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 507, 701(a); 52 Stat. 1050-53, as amended; 1055, 59 Stat. 463, as amended; 21 U.S.C. 352, 355, 357, 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 1, 3, 130, and 146 are amended as follows:

1. Section 1.105(e) (2)-(i) is revised to read as follows:

§ 1.105 Prescription-drug advertisements.

- (e) \* \* \*
- (2) \* \* \*

(i) *Reminder advertisements.* Reminder advertisements if they contain only the proprietary or trade name of a drug (which necessitates declaring the

established name, if any, and furnishing the formula showing quantitatively each ingredient of the drug to the extent required for labels) and, optionally, information relating to dosage form, quantity of package contents, price, the name and address of the manufacturer, packer, or distributor or other written, printed, or graphic matter containing no representation or suggestion relating to the advertised drug: *Provided, however,* That if the Commissioner finds that there is evidence of significant incidence of fatalities or serious damage associated with the use of a particular prescription drug, he may notify the manufacturer, packer, or distributor of the drug by mail that this exemption does not apply to such drug by reason of such finding: *And provided, however,* That reminder advertisements are not permitted for a drug for which an announcement has been published pursuant to a review of the labeling claims for the drug by the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, and for which no claim has been evaluated as higher than possibly effective. If the Commissioner finds the circumstances are such that a reminder advertisement may be misleading to prescribers of drugs subject to such NAS-NRC evaluation, such advertisements will not be allowed and the manufacturer, packer, or distributor will be notified either in the publication of the conclusions on the effectiveness of the drug or by letter.

2. The following new section is added:

§ 3.81 Disclosure of drug efficacy study evaluations in labeling and advertising.

(a) (1) The National Academy of Sciences-National Research Council, Drug Efficacy Study Group, has completed an exhaustive review of labeling claims made for drugs marketed under new-drug and antibiotic drug procedures between 1938 and 1962. The results are compiled in "Drug Efficacy Study, A Report to the Commissioner of Food and Drugs from the National Academy of Sciences (1969)." As the report notes, this review has made "an audit of the state of the art of drug usage that has been uniquely extensive in scope and uniquely intensive in time" and is applicable to more than 80 percent of the currently marketed drugs. The report further notes that the quality of the evidence of efficacy, as well as the quality of the labeling claims, is poor. Labeling and other promotional claims have been evaluated as "effective," "probably effective," "possibly effective," "ineffective," "ineffective as a fixed combination," and "effective but," and a report for each drug in the study has been submitted to the Commissioner.

(2) The Food and Drug Administration is processing the reports, seeking voluntary action on the part of the drug manufacturers and distributors in the elimination or modification of unsupported promotional claims, and initiating

administrative actions as necessary to require product and labeling changes.

(3) Delays have been encountered in bringing to the attention of the prescribers of prescription items the conclusions of the expert panels that reviewed the promotional claims.

(b) The Commissioner of Food and Drugs concludes that:

(1) The failure to disclose in the labeling of a drug and in other promotional material the conclusions of the Academy experts that a claim is "ineffective," "possibly effective," "probably effective," or "ineffective as a fixed combination," while labeling and promotional material bearing any such claim are being used, is a failure to disclose facts that are material in light of the representations made and causes the drug to be misbranded (21 U.S.C. 201(n), 502 (a), (n)).

(2) The Academy classification of a drug as other than "effective" for a claim for which such drug is recommended establishes that there is a material weight of opinion among qualified experts contrary to the representation made or suggested in the labeling, and failure to reveal this fact causes such labeling to be misleading.

(c) Therefore, after publication in the FEDERAL REGISTER of a Drug Efficacy Study Implementation notice on a prescription drug, unless exempted or otherwise provided for in the notice, all package labeling, promotional labeling, and advertisements shall include, as part of the information for practitioners under which the drug can be safely and effectively used, an appropriate qualification of all claims evaluated as other than "effective" by a panel of the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, if such claims continue to be included in either the labeling or advertisements whether or not such claims are used in both. When, however, the Food and Drug Administration classification of such claim is "effective" (for example, on the basis of revision of the language of the claim or submission or existence of adequate data), such qualification is not necessary. When the Food and Drug Administration classification of the claim, as stated in the implementation notice, differs from that of the Academy but is other than "effective," the qualifying statement shall refer to this classification in lieu of the Academy's classification.

(d) For new drugs and antibiotics, supplements to provide for revised labeling in accord with paragraph (c) of this section shall be submitted under the provisions of § 130.9 (d) and (e) and § 146.2 of this chapter within 90 days after publication of the implementation notice in the FEDERAL REGISTER, or within 90 days of the addition of this section to Part 3 for those drugs for which notices have already been published, and such labeling shall be put into use as soon as possible but not more than 90 days after publication of such notice.

(e) Information in drug labeling and prescription drug advertisements to advise prescribers of a drug of the findings of a panel of the Academy in evaluating a claim as other than "effective" shall be presented in a prominently placed box distinctly set apart from the promotional language.

3. Section 130.9(d) is amended by adding a new subparagraph, as follows:

§ 130.9 Supplemental applications.

(d) \* \* \*

(4) The addition to the package labeling, promotional labeling, or prescription drug advertisements of information adequate to inform the prescriber of a drug of the findings of a panel of the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, with respect to any claim in the labeling evaluated other than "effective," in accordance with § 3.81 of this chapter.

4. Section 146.2(b) (3) is revised to read as follows:

§ 146.2 Requests for certification, check tests and assays, and working standards; information and samples required.

(b) \* \* \*

(3) Before such person makes such change in the facilities and controls used in the manufacture, packaging, or labeling of the drug, he shall submit to the Commissioner for advance approval a full statement describing the proposed change. In the case of a proposal to use revised labeling on or within the drug package or promotional labeling containing information for use of the drug that is not the same in language and emphasis as the approved labeling, the applicant shall submit specimens for advance approval. Advance approval is not required when pursuant to a published FEDERAL REGISTER notice implementing a NAS-NRC drug efficacy study, the package labeling, other promotional labeling, or an advertisement is revised (i) to delete a claim for which there is a lack of substantial evidence of effectiveness, (ii) to modify labeling to be consistent with such notice, or (iii) to add in accord with § 3.81 of this chapter an informative statement of the findings of the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, with respect to any claim in the labeling evaluated as other than "effective."

*Effective date.* This order shall become effective 30 days after its date of FEDERAL REGISTER publication.

(Secs. 502, 505, 507, 701(a); 52 Stat. 1050-53, as amended; 1055, 59 Stat. 463, as amended; 21 U.S.C. 352, 355, 357, 371(a))

Dated: May 30, 1971.

CHARLES C. EDWARDS,  
Commissioner of Food and Drugs.  
[FR Doc.71-7914 Filed 6-7-71; 8:45 am]

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

**Revocation of Section**

In the FEDERAL REGISTER of October 9, 1969 (34 F.R. 15670), the Commissioner of Food and Drugs announced (DESI 12-14 NV) 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 Polyotic (tetracycline hydrochloride crystalline ointment (ophthalmic)), marketed by American Cyanamid Co., Post Office Box 400, Princeton, N.J., 08540.

The Academy concluded that the product is effective for treating ocular infections caused by organisms sensitive to the drug, but invited supplemental new drug applications to revise the labeling for this drug to limit the claims and to present the conditions of use substantially as set forth in said announcement. The Food and Drug Administration concurred with the conclusions of the Academy.

The announcement allowed American Cyanamid Co. 6 months to submit revised labeling or adequate documentation in support of the labeling used for Polyotic Ophthalmic Ointment, and made provisions for a written comment or request for an informal conference from interested persons.

American Cyanamid Co. did not furnish any data to support the labeling used for Polyotic Ophthalmic Ointment. They reported that this product is no longer marketed. No other comments or requests for conference were received.

Accordingly, the Commissioner concludes that the antibiotic regulation should be amended to revoke provisions for the certification of this drug in that the labeling fails to include required precautionary statement. The Commissioner further concludes that the certificates of safety and effectiveness heretofore issued for such drug should be withdrawn on the basis of a non-warranted hazard.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 507, 512, 59 Stat. 463, as amended, 82 Stat. 343-51; 21 U.S.C. 357, 360b) and under authority delegated to the Commissioner (21 CFR 2.120), Part 146c is amended by deleting paragraph (c)(3) from § 146c.202 *Chlortetracycline hydrochloride ointment; chlortetracycline calcium ointment; chlortetracycline calcium cream; tetracycline hydrochloride ointment (tetracycline hydrochloride in oil suspension); tetracycline ointment (tetracycline cream)*. Certificates of safety and effectiveness issued under these regulations are also revoked.

Any person who would be adversely affected by the removal of any such drug on the market may file within 30 days

after publication hereof in the FEDERAL REGISTER objections to this order stating reasonable grounds and requesting a hearing on such objections. A statement of reasonable grounds for a hearing shall identify the claimed errors in the NAS/NRC evaluation and identify any adequate and well-controlled investigations on the basis of which it could reasonably be concluded that the drug would have the effectiveness claimed and would be safe for its intended use.

Objections and requests for a hearing should be filed (preferably in quadruplicate) with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852.

*Effective date.* This order shall become effective 40 days after its date of publication in the FEDERAL REGISTER. If objections are filed the effective date will be extended for a ruling thereon.

(Secs. 507, 512, 59 Stat. 463, as amended, 82 Stat. 343-51; 21 U.S.C. 357, 360b)

Date: May 27, 1971.

SAM D. FINE,  
Associate Commissioner  
for Compliance.

[FR Doc.71-7915 Filed 6-7-71; 8:45 am]

**Title 24—HOUSING AND HOUSING CREDIT**

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

[Docket No. R-71-116]

**PART 17—ADMINISTRATIVE CLAIMS**

**Subpart A—Claims Against Government Under Federal Tort Claims Act**

**MISCELLANEOUS AMENDMENTS**

Part 17 of Subtitle A of Title 24 of the Code of Federal Regulations is amended in the following respects:

§ 17.6 [Amended]

(1) Section 17.6, paragraph (a)(5), in the last sentence is revised to read: " \* \* \* The head of the organizational unit will transmit the entire file to the General Counsel."

(2) Section 17.7 is revised to read as follows:

§ 17.7 Authority to adjust, determine, compromise, and settle claims.

The General Counsel, the Deputy General Counsel, and such employees of the Office of the General Counsel as may be designated by the General Counsel, are authorized to consider, ascertain, adjust, determine, compromise, and settle claims pursuant to the Federal Tort Claims Act, 28 U.S.C. 2671, and the regulations contained in 28 CFR Part 14 and in this subpart.

§ 17.10 [Deleted]

(3) Section 17.10 is deleted.

(Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d))

*Effective date.* This amendment shall be effective as of June 9, 1971.

GEORGE ROMNEY,  
Secretary of Housing and  
Urban Development.

[FR Doc.71-7945 Filed 6-7-71;8:47 am]

**Title 42—PUBLIC HEALTH**

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

**SUBCHAPTER F—QUARANTINE, INSPECTION, LICENSING**

**PART 72—INTERSTATE QUARANTINE**

**Subpart A—Definitions and General Provisions**

**Subpart G—Land and Air Conveyances: Equipment and Operation**

**REVISIONS REGARDING DISCHARGE OF WASTES FROM RAILROAD CONVEYANCES AND OTHER MATTERS**

In the FEDERAL REGISTER of October 15, 1970 (35 FR. 16179), the Commissioner of Food and Drugs proposed that the Public Health Service interstate quarantine regulations (42 CFR Part 72) be amended by redefining "communicable disease" in § 72.1(b), by adding two inadvertently omitted diseases, leprosy and relapsing fever, to the list of diseases in § 72.2; and by revising § 72.154 to prohibit discharge of human wastes, garbage, etc., from railroad conveyances except at servicing areas approved by the Commissioner of Food and Drugs. The proposed revision of § 72.154 was in terms of "new railroad conveyances" which were defined as railroad conveyances placed into service after December 31, 1971.

The proposal provided for the filing of comments within 30 days after FEDERAL REGISTER publication and this time was extended to December 14, 1970, by a notice published November 28, 1970 (35 FR. 18203).

In response, comments were received regarding the proposed revision of § 72.154 suggesting clarifying technical changes, suggesting extension of the scope of the revision to include existing railroad conveyances, and objecting to the cost of equipping all railroad conveyances with retention type equipment.

Having considered the comments, the Commissioner concludes that:

1. The need for regulating such waste discharging has been clearly established.
2. Although the total cost to the railroad industry (and ultimately to passengers and taxpayers) is recognized to be significant, the impact on individual passengers and taxpayers will be minimal.
3. In consideration of the impact on the industry, provision should be made

to allow for an extension of time for full compliance in cases of demonstrated need.

4. The revision of § 72.154 should be expanded to cover existing as well as new railroad conveyances and "new" should pertain to conveyances introduced into service after July 1, 1972.

5. The proposal, with changes, should be adopted as set forth below.

Therefore, pursuant to provisions of the Public Health Service Act (sec. 361, 58 Stat. 703; 42 U.S.C. 264) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), §§ 72.1(b), 72.2, and 72.154 are revised to read as follows:

§ 72.1 General definitions.

(b) *Communicable diseases.* Illnesses due to infectious agents or their toxic products, which may be transmitted from a reservoir to a susceptible host either directly as from an infected person or animal or indirectly through the agency of an intermediate plant or animal host, vector, or the inanimate environment.

§ 72.2 Apprehension and detention of persons with specific diseases.

Regulations prescribed in this part are not applicable to the apprehension, detention, or conditional release of individuals except for the purpose of preventing the introduction, transmission, or spread of the following diseases: Anthrax, chancroid, cholera, dengue, diphtheria, granuloma inguinale, infectious encephalitis, favus, gonorrhea, leprosy, lymphogranuloma venereum, meningococcus meningitis, plague, polio-myelitis, psittacosis, relapsing fever, ringworm of the scalp, scarlet fever, streptococcal sore throat, smallpox, syphilis, trachoma, tuberculosis, typhoid fever, typhus, and yellow fever.

§ 72.154 Railroad conveyances; discharge of wastes.

(a) *New railroad conveyances.* Human wastes, garbage, waste water, or other polluting materials shall not be discharged from any new railroad conveyance except at servicing areas approved by the Commissioner of Food and Drugs. In lieu of retention pending discharge at approved servicing areas, human wastes, garbage, waste water, or other polluting materials that have been suitably treated to prevent the spread of communicable diseases may be discharged from such conveyances, except at stations. For the purposes of this section, "new railroad conveyance" means any such conveyance placed into service for the first time after July 1, 1972, and the terms "waste water or other polluting materials" do not include drainage of drinking water taps or lavatory facilities.

(b) *Nonnew railroad conveyances.* Human waste, garbage, waste water, or other polluting materials shall not be discharged from any railroad conveyance

after December 31, 1974, except at servicing areas approved by the Commissioner of Food and Drugs. If justified, an extension may be granted by the Commissioner of Food and Drugs, but in no case beyond December 31, 1977. In lieu of retention pending discharge at approved servicing areas, human wastes, garbage, waste water, or other polluting materials that have been suitably treated to prevent the spread of communicable diseases may be discharged from such conveyances, except at stations. The terms "waste water or other polluting materials" do not include drainage of drinking water taps or lavatory facilities.

(c) *Toilets.* When railroad conveyances, occupied or open to occupancy by travelers, are at a station or servicing area, toilets shall be kept locked unless means are provided to prevent contamination of the area or station.

(d) *Requests for approvals or extensions.* Requests for approval of servicing areas or extensions of compliance time under the provisions of this section should be addressed to the Commissioner, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852.

*Effective date.* This order shall become effective 30 days after the date of its FEDERAL REGISTER publication.

(Sec. 301, 58 Stat. 703; 42 U.S.C. 264).

Dated: June 1, 1971.

CHARLES C. EDWARDS,  
Commissioner of Food and Drugs.  
[FR Doc.71-7920 Filed 6-7-71;8:46 am]

**Title 26—INTERNAL REVENUE**

**Chapter I—Internal Revenue Service, Department of the Treasury**

[T.D. 7122]

**SUBCHAPTER A—INCOME TAX**

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

**SUBCHAPTER F—PROCEDURE AND ADMINISTRATION**

**PART 301—PROCEDURE AND ADMINISTRATION**

**Returns and Annual Reports of Exempt Organizations**

In order to conform the Income Tax Regulations (26 CFR Part 1) and the Regulations on Procedure and Administration (26 CFR Part 301) under sections 6033, 6056, and 6104 of the Internal Revenue Code of 1954 to sections 101(d) (1), (2), and (3), 101(e) (1), (2), and (3), and 101(j) (30) and (36) of the Tax Reform Act of 1969 (83 Stat. 519), such regulations are amended as follows:

**PARAGRAPH 1.** Paragraph (c) of § 1.6001-1 is amended to read as follows:  
§ 1.6001-1 Records.

(c) *Exempt organizations.* In addition to such permanent books and records as

are required by paragraph (a) of this section with respect to the tax imposed by section 511 on unrelated business income of certain exempt organizations, every organization exempt from tax under section 501(a) shall keep such permanent books of account or records, including inventories, as are sufficient to show specifically the items of gross income, receipts and disbursements. Such organizations shall also keep such books and records as are required to substantiate the information required by section 6033. See section 6033 and § 1.6033-1.

PAR. 2. Section 1.6033 is amended to read as follows:

Sec. 6033. *Returns by exempt organizations—(a) Organizations required to file—*

(1) *In general.* Except as provided in paragraph (2), every organization exempt from taxation under section 501(a) shall file an annual return, stating specifically the items of gross income, receipts, and disbursements, and such other information for the purpose of carrying out the internal revenue laws as the Secretary or his delegate may by forms or regulations prescribe, and shall keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary or his delegate may from time to time prescribe; except that, in the discretion of the Secretary or his delegate, any organization described in section 401(a) may be relieved from stating in its return any information which is reported in returns filed by the employer which established such organization.

(2) *Exceptions from filing—(A) Mandatory exceptions.* Paragraph (1) shall not apply to—

(i) Churches, their integrated auxiliaries, and conventions or associations of churches,  
(ii) Any organization (other than a private foundation, as defined in section 509(a)) described in subparagraph (C), the gross receipts of which in each taxable year are normally not more than \$5,000, or

(iii) The exclusively religious activities of any religious order.

(B) *Discretionary exceptions.* The Secretary or his delegate may relieve any organization required under paragraph (1) to file an information return from filing such a return where he determines that such filing is not necessary to the efficient administration of the internal revenue laws.

(C) *Certain organizations.* The organizations referred to in subparagraph (A) (ii) are—

(i) A religious organization described in section 501(c) (3);

(ii) An educational organization described in section 170(b) (1) (A) (ii);

(iii) A charitable organization, or an organization for the prevention of cruelty to children or animals, described in section 501(c) (3), if such organization is supported, in whole or in part, by funds contributed by the United States or any State or political subdivision thereof, or is primarily supported by contributions of the general public;

(iv) An organization described in section 501(c) (3), if such organization is operated, supervised, or controlled by or in connection with a religious organization described in clause (i);

(v) An organization described in section 501(c) (8); and

(vi) An organization described in section 501(c) (1), if such organization is a corporation wholly owned by the United States or any agency or instrumentality thereof, or a wholly owned subsidiary of such a corporation.

(b) *Certain organizations described in section 501(c) (3).* Every organization described in section 501(c) (3) which is subject to the requirements of subsection (a) shall furnish annually information, at such time and in such manner as the Secretary or his delegate may by forms or regulations prescribe, setting forth—

(1) Its gross income for the year,

(2) Its expenses attributable to such income and incurred within the year,

(3) Its disbursements within the year for the purposes for which it is exempt,

(4) A balance sheet showing its assets, liabilities, and net worth as of the beginning of such year,

(5) The total of the contributions and gifts received by it during the year, and the names and addresses of all substantial contributors,

(6) The names and addresses of its foundation managers (within the meaning of section 4946(b) (1)) and highly compensated employees, and

(7) The compensation and other payments made during the year to each individual described in paragraph (6).

(c) *Gross reference.* For provisions relating to statements, etc., regarding exempt status of organizations, see section 6001.

For reporting requirements as to certain liquidations, dissolutions, terminations, and contractions, see section 6043(b). For provisions relating to penalties for failure to file a return required by this section, see section 6652(d).

[Sec. 6033 as amended by sec. 75(b), Technical Amendments Act 1958 (72 Stat. 1661); sec. 101(d), Tax Reform Act 1969 (83 Stat. 519)]

PAR. 3. Section 1.6033-1 is amended by amending the title and by adding a new paragraph (j) at the end thereof. Such amended and added provisions read as follows:

§ 1.6033-1 *Returns by exempt organizations; taxable years beginning before January 1, 1970.*

(j) *Effective date.* The provisions of this section shall apply with respect to returns filed for taxable years beginning before January 1, 1970.

PAR. 4. There is inserted immediately after section 1.6033-1 the following new section:

§ 1.6033-2 *Returns by exempt organizations; taxable years beginning after December 31, 1969.*

(a) *In general.* (1) Except as provided in section 6033(a) (2) and paragraph (g) of this section, every organization exempt from taxation under section 501(a) shall file an annual information return specifically setting forth its items of gross income, gross receipts and disbursements, and such other information as may be prescribed in the instructions issued with respect to the return. Except as provided in paragraph (d) of this section, such return shall be filed annually regardless of whether such organization is chartered by, or affiliated or associated with, any central, parent, or other organization.

(2) (i) Except as otherwise provided in this paragraph and paragraph (g) of this section, every organization exempt from taxation under section 501(a), and required to file a return under section 6033 and this section, other than an or-

ganization described in section 401(a) or 501(d), shall file its annual return on Form 990. Form 990 consists of several parts, not all of which are required to be completed by all organizations required to file such form. In general, (a) organizations (other than private foundations) which have gross receipts for the year of \$10,000 or less are required to provide less detailed information about their activities on the Form 990, and (b) organizations with gross receipts for the year of more than \$10,000, and private foundations, are required to document their activities more thoroughly.

(ii) The information generally required to be furnished by an organization exempt under section 501(a) is:

(a) Its gross income for the year. For this purpose, gross income includes tax-exempt income, but does not include contributions, gifts, grants, and similar amounts received. Whether an item constitutes a contribution, gift, grant, or similar amount depends upon all the surrounding facts and circumstances. The computation of gross income shall be made by subtracting the cost of goods sold from all receipts other than gross contributions, gifts, grants, and similar amounts received and nonincludible dues and assessments from members and affiliates.

(b) To the extent not included in gross income, its dues and assessments from members and affiliates for the year.

(c) Its expenses incurred within the year attributable to gross income.

(d) Its disbursements (including prior years' accumulations) made within the year for the purposes for which it is exempt.

(e) A balance sheet showing its assets, liabilities, and net worth as of the beginning and end of such year. Detailed information relating to the assets, liabilities, and net worth shall be furnished on the schedule provided for this purpose on the Form 990. Such schedule shall be supplemented by attachments where appropriate.

(f) The total of the contributions, gifts, grants and similar amounts received by it during the taxable year, and the names and addresses of all persons who contributed, bequeathed, or devised \$5,000 or more (in money or other property) during the taxable year. In the case of a private foundation (as defined in section 509(a)), the names and addresses of all persons who became substantial contributors (as defined in section 507(d) (2)) during the taxable year shall be furnished. In addition, for its first taxable year beginning after December 31, 1969, each private foundation shall furnish the names and addresses of all persons who became substantial contributors before such taxable year. For special rules with respect to contributors and donors, see subdivision (iii) of this subparagraph.

(g) The names and addresses of all officers, directors, or trustees (or any person having responsibilities or powers similar to those of officers, directors, or trustees) of the organization, and, in

the case of a private foundation, all persons who are foundation managers, within the meaning of section 4946(b) (1). Organizations described in section 501(c) (3) must also attach a schedule showing the names and addresses of the five employees (if any) who received the greatest amount of annual compensation in excess of \$30,000; the total number of other employees who received annual compensation in excess of \$30,000; the names and addresses of the five independent contractors (if any) who performed personal services of a professional nature for the organization (such as attorneys, accountants, and doctors, whether such services are performed by such persons in their individual capacity or as employees of a professional service corporation) and who received in excess of \$30,000 from the organization for the year for the performance of such services; and the total number of other such independent contractors who received in excess of \$30,000 for the year for the performance of such services.

(h) A schedule showing the compensation and other payments made during the organization's annual accounting period (or during the calendar year ending within such period) which are includible in the gross income of each individual whose name is required to be listed in (g) of this subdivision.

(iii) *Special rules.* In providing the names and addresses of contributors and donors under subdivision (ii) (f) of this subparagraph—

(a) An organization described in section 501(c) (3) which meets the 33 1/3 percent-of-support test of the regulations under section 170(b) (1) (A) (vi) (without regard to whether such organization otherwise qualifies as an organization described in section 170(b) (1) (A)) is required to provide the name and address of a person who contributed, bequeathed, or devised \$5,000 or more during the year only if his amount is in excess of 2 percent of the total contributions, bequests and devises received by the organization during the year.

(b) An organization other than a private foundation is required to report only the names and addresses of contributors of whom it has actual knowledge. For instance, an organization need not require an employer who withholds contributions from the compensation of employees and pays over to the organization periodically the total amounts withheld, to specify the amounts paid over with respect to a particular employee. In such case, unless the organization has actual knowledge that a particular employee gave more than \$5,000 (and in excess of 2 percent if (a) of this subdivision is applicable), the organization need report only the name and address of the employer, and the total amount paid over by him.

(c) Separate and independent gifts made by one person in a particular year need be aggregated to determine if his contributions and bequests exceed \$5,000 (and in excess of 2 percent if (a) of this

subdivision is applicable), only if such gifts are of \$1,000 or more.

(d) (1) Organizations described in section 501(c) (8) or (10) (and, for taxable years beginning after December 31, 1970, organizations described in section 501(c) (7)) that receive contributions or bequests to be used exclusively for purposes described in section 170(c) (4), 2055(a) (3), or 2522(a) (3), must attach a schedule with respect to all gifts which aggregate more than \$1,000 from any one person showing the name of the donor, the amount of the contribution or bequest, the specific purpose for which such amount was received, and the specific use to which such amount was put. In the case of an amount set aside for such purposes, the organization shall indicate the manner in which such amount is held (for instance, whether such amount is commingled with amounts held for other purposes). If the contribution or bequest was transferred to another organization, the schedule must include the name of the transferee organization, a description of the nature of such organization, and a description of the relationship between the transferee and transferor organizations.

(2) For taxable years beginning after December 31, 1970, such organizations must also attach a statement showing the total dollar amount of contributions and bequests received for such purposes which are \$1,000 or less.

(iv) *Listing of States.* A private foundation is required to attach to its Form 990 a list of all States—

(a) To which the organization reports in any fashion concerning its organization, assets, or activities, or

(b) With which the organization has registered (or which it has otherwise notified in any manner) that it intends to be, or is, a charitable organization or a holder of property devoted to a charitable purpose.

(3) Every employee's trust described in section 401(a) which is exempt from taxation under section 501(a) shall file an annual return on Form 990-P. The return shall include the information required by paragraph (b) (5) (ii) of § 1.401-1. In addition, the trust must file the information required to be filed by the employer pursuant to the provisions of § 1.404(a)-2, unless the employer has notified the trustee in writing that he has filed or will timely file such information. If the trustee has received such notification from the employer, then such notification, or a copy thereof, shall be retained by the trust as a part of its records.

(b) *Accounting period for filing return.* A return on Form 990 shall be on the basis of the established annual accounting period of the organization. If the organization has no such established accounting period, such return shall be on the basis of the calendar year.

(c) *Returns when exempt status not established.* An organization claiming an exempt status under section 501(a), prior to the establishment of such exempt status under section 501 and § 1.501(a)-1, shall file a Form 990 in accordance

with the instructions applicable thereto. In such case the organization must indicate on such Form 990 that the return is being filed in the belief that the organization is exempt under section 501 (a), but that the Internal Revenue Service has not yet recognized such exemption.

(d) *Group returns.* (1) A central, parent, or like organization (referred to in this paragraph as "central organization"), exempt under section 501(a) and described in section 501(c) (other than a private foundation), although required to file a separate annual return for itself under section 6033 and paragraph (a) of this section, may file annually, in addition to such separate annual return, a group return on Form 990. Such group return may be filed for two or more of the local organizations, chapters, or the like (referred to in this paragraph as "local organizations") which are (i) affiliated with such central organization at the close of its annual accounting period, (ii) subject to the general supervision or control of the central organization, and (iii) exempt from taxation under the same paragraph of section 501(c) of the Code, although the local organizations are not necessarily exempt under the paragraph under which the central organization is exempt. Such group return may not be filed for a local organization which is a private foundation.

(2) (i) The filing of the group return shall be in lieu of the filing of a separate return by each of the local organizations included in the group return. The group return shall include only those local organizations which in writing have authorized the central organization to include them in the group return, and which have made and filed, with the central organization, their statements, specifically stating their items of gross income, receipts, and disbursements, and such other information relating to them as is required to be stated in the group return. Such an authorization and statement by a local organization shall be made under the penalties of perjury, shall be signed by a duly authorized officer of the local organization in his official capacity, and shall contain the following statement, or a statement of like import: "I hereby declare under the penalties of perjury that this authorization (including any accompanying schedules and statements) has been examined by me and to the best of my knowledge and belief is true, correct and complete and made in good faith." Such authorization and statement with respect to a local organization shall be retained by the central organization until the expiration of 6 years after the last taxable year for which a group return filed by such central organization includes such local organization.

(ii) There shall be attached to the group return and made a part thereof a schedule showing the name, address, and employer identification number of each of the local organizations and the total

number thereof included in such return, and a schedule showing the name, address, and employer identification number of each of the local organizations and the total number thereof not included in the group return.

(3) The group return shall be on the basis of the established annual accounting period of the central organization. Where such central organization has no established annual accounting period, such return shall be on the basis of the calendar year. The same income, receipts, and disbursements of a local organization shall not be included in more than one group return.

(4) The group return shall be filed in accordance with these regulations and the instructions issued with respect to Form 990, and shall be considered the return of each local organization included therein. The tax exempt status of a local organization must be established under a group exemption letter issued to the central organization before a group return including the local organization will be considered as the return of the local organization. See § 1.501(a)-1 for requirements for establishing a tax-exempt status.

(5) In providing the information required by paragraph (a) (2) (i), (f), (g), and (h) of this section, such information may be provided—

(i) with respect to the central or parent organization on its Form 990, and with respect to the local organizations on separate schedules attached to the group return for the year, or

(ii) on a consolidated basis for all the local organizations and the central or parent organization on the group return.

Such information need be provided only with respect to those local organizations which are not excepted from filing under the provisions of paragraph (g) of this section. A central or parent organization shall indicate whether it has provided such information in the manner described in subdivision (i) or in subdivision (ii) of this subparagraph, and may not change the manner in which it provides such information without the consent of the Commissioner.

(e) *Time and place for filing.* The annual return on Form 990 shall be filed on or before the 15th calendar month following the close of the period for which the return is required to be filed. The annual return on Form 1065 required to be filed by a religious or apostolic association or corporation shall be filed on or before the 15th day of the fourth month following the close of the taxable year for which the return is required to be filed. Each such return shall be filed in accordance with the instructions applicable thereto.

(f) *Penalties and additions to tax.* For penalties and additions to tax for failure to file a return and filing a false or fraudulent return, see sections 6652, 7203, 7206, and 7207.

(g) *Organizations not required to file annual returns.* (1) Annual returns required by this section are not required

to be filed by an organization exempt from taxation under section 501(a) which is—

(i) A church, an interchurch organization of local units of a church, a convention or association of churches, or an integrated auxiliary of a church such as a men's or women's organization, religious school, mission society, or youth group;

(ii) An exclusively religious activity of any religious order;

(iii) An organization (other than a private foundation) the gross receipts of which in each taxable year are normally not more than \$5,000 (as described in subparagraph (3) of this paragraph);

(iv) A mission society sponsored by or affiliated with one or more churches or church denominations, more than one-half of the activities of which society are conducted in, or directed at persons in foreign countries;

(v) A State institution, the income of which is excluded from gross income under section 115(a); or

(vi) An organization described in section 501(c) (1).

(2) The provisions of section 6033(a) relieving certain specified types of organizations exempt from taxation under section 501(a) from filing annual returns do not abridge or impair in any way the powers and authority of district directors or directors of service centers provided for in other provisions of the Code and in regulations thereunder to require the filing of returns or notices by such organizations. See section 6001 and § 1.6001-1.

(3) For purposes of subparagraph (1) (iii) of this paragraph, the gross receipts (as defined in subparagraph (4) of this paragraph) of an organization are normally not more than \$5,000 if—

(i) In the case of an organization which has been in existence for 1 year or less, the organization has received, or donors have pledged to give, gross receipts of \$7,500 or less during the first taxable year of the organization,

(ii) In the case of an organization which has been in existence for more than one but less than 3 years, the average of the gross receipts received by the organization in its first 2 taxable years is \$6,000 or less, and

(iii) In the case of an organization which has been in existence for 3 years or more, the average of the gross receipts received by the organization in the immediately preceding 3 taxable years, including the year for which the return would be required to be filed, is \$5,000 or less.

(4) For purposes of this paragraph and paragraph (a) (2) of this section, "gross receipts" means the gross amount received by the organization during its annual accounting period from all sources without reduction for any costs or expenses including, for example, cost of goods or assets sold, cost of operations, or expenses of earning, raising, or collecting such amounts. Thus "gross receipts" includes, but is not limited to,

(i) the gross amount received as contributions, gifts, grants, and similar amounts without reduction for the expenses of raising and collecting such amounts, (ii) the gross amount received as dues or assessments from members or affiliated organizations without reduction for expenses attributable to the receipt of such amounts, (iii) gross sales or receipts from business activities (including business activities unrelated to the purpose for which the organization qualifies for exemption, the net income or loss from which may be required to be reported on Form 990-T), (iv) the gross amount received from the sale of assets without reduction for cost or other basis and expenses of sale, and (v) the gross amount received as investment income, such as interest, dividends, rents, and royalties.

(5) The Commissioner may relieve any organization or class of organizations from filing, in whole or in part, the annual return required by this section where he determines that such returns are not necessary for the efficient administration of the internal revenue laws.

(h) *Records, statements, and other returns of tax-exempt organizations.* (1) An organization which is exempt from taxation under section 501(a) and is not required to file annually an information return on Form 990 shall immediately notify in writing the district director for the internal revenue district in which its principal office is located of any changes in its character, operations, or purpose for which it was originally created.

(2) Every organization which is exempt from tax, whether or not it is required to file an annual information return, shall submit such additional information as may be required by the Internal Revenue Service for the purpose of inquiring into its exempt status and administering the provisions of subchapter F (section 501 and following), chapter 1 of subtitle A of the Code, section 6033, and chapter 42 of subtitle D of the Code. See section 6001 and § 1.6001-1 with respect to the authority of the district directors or directors of service centers to require such additional information and with respect to the books of account or records to be kept by such organizations.

(3) An organization which has established its exemption from taxation under section 501(a), including an organization which is relieved under section 6033 and this section from filing annual returns of information, is not relieved of the duty of filing other returns of information. See, for example, sections 6041, 6043, and 6051 and the regulations thereunder.

(i) *Unrelated business tax returns.* In addition to the foregoing requirements of this section, certain organizations otherwise exempt from tax under section 501(a) which are subject to tax on unrelated business taxable income are also required to file returns on Form 990-T. See paragraph (e) of § 1.6012-2 and paragraph (a) (5) of § 1.6012-3 for requirements with respect to such returns.

(j) *Special rule for private foundations.* A private foundation shall attach to each copy of the annual report required by section 6056 which its foundation managers send to a State Attorney General a copy of the Form 990, and a copy of the Form 4720, if any, filed by the foundation with the Internal Revenue Service for the year. For provisions relating to annual reports, see section 6056 and the regulations thereunder.

(k) *Effective date.* The provisions of this section shall apply with respect to returns filed for taxable years beginning after December 31, 1969.

PAR. 5. There are inserted immediately after § 1.6052-2 the following new sections:

**§ 1.6056** Statutory provisions; annual reports by private foundations.

Sec. 6056. *Annual reports by private foundations—(a) General.* The foundation managers (within the meaning of section 4946(b)) of every organization which is a private foundation (within the meaning of section 509(a)) having at least \$5,000 of assets at any time during a taxable year shall file an annual report as of the close of the taxable year at such time and in such manner as the Secretary or his delegate may by regulations prescribe.

(b) *Contents.* The foundation managers of the private foundation shall set forth in the annual report required under subsection (a) the following information:

- (1) Its gross income for the year,
- (2) Its expenses attributable to such income and incurred within the year,
- (3) Its disbursements (including administrative expenses) within the year,
- (4) A balance sheet showing its assets, liabilities, and net worth as of the beginning of the year,
- (5) An itemized statement of its securities and all other assets at the close of the year, showing both book and market value,
- (6) The total of the contributions and gifts received by it during the year,
- (7) An itemized list of all grants and contributions made or approved for future payment during the year, showing the amount of each such grant or contribution, the name and address of the recipient, any relationship between any individual recipient and the foundation's managers or substantial contributors, and a concise statement of the purpose of each such grant or contribution,
- (8) The address of the principal office of the foundation and (if different) of the place where its books and records are maintained,
- (9) The names and addresses of its foundation managers (within the meaning of section 4946(b)), and
- (10) A list of all persons described in paragraph (9) that are substantial contributors (within the meaning of section 507(d)(2)) or that own 10 percent or more of the stock of any corporation of which the foundation owns 10 percent or more of the stock, or corresponding interests in partnerships or other entities, in which the foundation has a 10 percent or greater interest.

(c) *Form.* The annual report may be prepared in printed, typewritten, or any other legible form the foundation chooses. The Secretary or his delegate shall provide forms which may be used by a private foundation for purposes of the annual report.

(d) *Special rules.* (i) The annual report required to be filed under this section is in addition to and not in lieu of the information required to be filed under section 6083 (relating to returns by exempt organizations)

and shall be filed at the same time as such information.

(2) A copy of the notice required by section 6104(d) (relating to public inspection of private foundations' annual reports), together with proof of publication thereof, shall be filed by the foundation managers together with the annual report.

(3) The foundation managers shall furnish copies of the annual report required by this section to such State officials and other persons, at such times and under such conditions, as the Secretary or his delegate may by regulations prescribe.

**§ 1.6056-1** Annual reports by private foundations.

(a) *Annual reports—(1) In general.* The foundation managers (as defined in section 4946(b)) of every organization (including a trust described in section 4947(a)(1)) which is (or is treated as) a private foundation (as defined in section 509(a)) the assets of which are at least \$5,000 at any time during a taxable year shall file an annual report setting forth the information described in subparagraphs (2) and (3) of this paragraph.

(2) *Form an annual report, time and place of filing.* The annual report required by this paragraph may be in printed, typewritten, or other form, provided that it readily and legibly discloses the information required by section 6056 and this section. Form 990-AR, Annual Report of Private Foundation, may be used for this purpose. The annual report shall be filed at the place specified in the instructions applicable to Form 990 at the same time as such form.

(3) *Foundation managers not using Form 990-AR.* Foundation managers not choosing to use Form 990-AR as the annual report required by this paragraph shall file a report in accordance with subparagraphs (1) and (2) of this paragraph, setting forth the information required by section 6056(b) and in accordance with the instructions applicable to Form 990-AR. For purposes of section 6056(b)(1), gross income shall be as defined in the regulations under section 6033(b)(1), and for purposes of section 6056(b)(2), expenses attributable to such income shall be as defined in the regulations under section 6033(b)(2). For purposes of section 6056(b)(7), the term "relationship" shall include, but is not limited to, any case in which an individual recipient of a grant or contribution by a private foundation is (i) a member of the family (as defined in section 4946(d)) of a substantial contributor or foundation manager of such foundation, (ii) a partner of such substantial contributor or foundation manager, or (iii) an employee of such substantial contributor or foundation manager or of an organization which is effectively controlled (directly or indirectly) by one or more such substantial contributors or foundation managers (within the meaning of section 4946(a)(1)(H)(i) and the regulations thereunder). For purposes of section 6056(b)(7) and (9), the business address of an individual grant recipient or foundation manager may be used by the foundation in its annual report in

lieu of the home address of such recipient or manager. For purposes of section 6056(b)(9), the term "foundation managers" shall have the same meaning as such term has in section 6033(b)(6).

(4) *Notice to public of availability of annual report.* A copy of the notice required by section 6104(d) (relating to public inspection of private foundations' annual reports), and proof of publication thereof, shall be filed with the annual report required by this paragraph. A copy of such notice as published, and a statement signed by a foundation manager stating that such notice was published, setting forth the date of publication and the publication in which it appeared, shall be sufficient proof of publication for purposes of this subparagraph.

(b) *Special rules—(1) Manner of making annual report available for public inspection.* The foundation managers of a private foundation may satisfy the requirement that the annual report be made available for public inspection at the foundation's principal office by furnishing a copy free of charge to persons who request inspection in the manner and at the time prescribed therefor in section 6104(d) and the regulations thereunder.

(2) *Furnishing copies to libraries and depositories.* The Commissioner may designate one or more appropriate libraries or depositories to which the foundation managers will be required to send copies of their annual reports, in addition to, and not in lieu of, filing such annual reports with the Internal Revenue Service and making such annual reports available for public inspection at the principal office of the foundation.

(3) *Furnishing of copies to State officers.* The foundation managers of a private foundation shall furnish a copy of the annual report required by section 6056 and this section to the Attorney General of (i) each State which the foundation is required to list as an attachment to the Form 990 pursuant to § 1.6033-2 (a)(2)(iv), (ii) the State in which is located the principal office of the foundation, and (iii) the State in which the foundation was incorporated or created. The annual report shall be sent to each Attorney General described in subdivision (i), (ii), or (iii) of this subparagraph at the same time as it is sent to the Internal Revenue Service. Upon request the foundation managers shall also furnish a copy of the annual report to the Attorney General or other appropriate State officer (within the meaning of section 6104(c)(2)) of any State. The foundation managers shall attach to each copy of the annual report sent to State officers under this subparagraph a copy of the Forms 990 and 4720, if any, filed by the foundation for the year.

(c) *Special rules for certain foreign organizations.* The provisions of paragraphs (a)(4), (b)(1) and (3) of this section shall not apply with respect to an organization described in section 4948(b). The foundation managers of such organizations are not required to publish

notice of availability of the annual report for inspection, to make the annual report available at the principal office of the foundation for public inspection under section 6104(d), or to send copies of the annual report to State officers. Such foundation managers may be required to furnish copies of their annual reports to libraries and depositories in accordance with the provisions of paragraph (b) (2) of this section.

PAR. 6. Section 301.6033 is amended to read as follows:

**§ 301.6033 Statutory provisions; returns by exempt organizations.**

Sec. 6033. *Returns by exempt organizations—(a) Organizations required to file—*  
 (1) *In general.* Except as provided in paragraph (2), every organization exempt from taxation under section 501(a) shall file an annual return, stating specifically the items of gross income, receipts, and disbursements, and such other information for the purpose of carrying out the internal revenue laws as the Secretary or his delegate may by forms or regulations prescribe, and shall keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary or his delegate may from time to time prescribe; except that, in the discretion of the Secretary or his delegate, any organization described in section 401(a) may be relieved from stating in its return any information which is reported in returns filed by the employer which established such organization.

(2) *Exceptions from filing—(A) Mandatory exceptions.* Paragraph (1) shall not apply to—

(i) Churches, their intergraded auxiliaries, and conventions or associations of churches,  
 (ii) Any organization (other than a private foundation, as defined in section 509(a)) described in subparagraph (C), the gross receipts of which in each taxable year are normally not more than \$5,000, or

(iii) The exclusively religious activities of any religious order.

(B) *Discretionary exceptions.* The Secretary or his delegate may relieve any organization required under paragraph (1) to file an information return from filing such a return where he determines that such filing is not necessary to the efficient administration of the internal revenue laws.

(C) *Certain organizations.* The organizations referred to in subparagraph (A) (ii) are—

(i) A religious organization described in section 501(c) (3);

(ii) An educational organization described in section 170(b) (1) (A) (ii);

(iii) A charitable organization, or an organization for the prevention of cruelty to children or animals, described in section 501(c) (3), if such organization is supported, in whole or in part, by funds contributed by the United States or any State or political subdivision thereof, or is primarily supported by contributions of the general public;

(iv) An organization described in section 501(c) (3), if such organization is operated, supervised, or controlled by or in connection with a religious organization described in clause (i);

(v) An organization described in section 501(c) (8); and

(vi) An organization described in section 501(c) (1), if such organization is a corporation wholly owned by the United States or any agency or instrumentality thereof, or a wholly owned subsidiary or such a corporation.

(b) *Certain organizations described in section 501(c) (3).* Every organization described in section 501(c) (3) which is subject to the requirements of subsection (a) shall furnish annually information, at such time and in such manner as the Secretary or his delegate may by forms or regulations prescribe, setting forth—

(1) Its gross income for the year,

(2) Its expenses attributable to such income and incurred within the year,

(3) Its disbursements within the year for the purposes for which it is exempt,

(4) A balance sheet showing its assets, liabilities, and net worth as of the beginning of such year,

(5) The total of the contributions and gifts received by it during the year, and the names and addresses of all substantial contributors,

(6) The names and addresses of its foundation managers (within the meaning of section 4946(b) (1)) and highly compensated employees, and

(7) The compensation and other payments made during the year to each individual described in paragraph (6).

(c) *Cross reference.* For provisions relating to statements, etc., regarding exempt status of organizations, see section 6001.

For reporting requirements as to certain liquidations, dissolutions, terminations, and contractions, see section 6043(b). For provisions relating to penalties for failure to file a return required by this section, see section 6652(d).

[Sec. 6033 as amended by sec. 75(b), Technical Amendments Act 1958 (72 Stat. 1661); sec. 101(d), Tax Reform Act 1969 (83 Stat. 519)]

PAR. 7. Section 301.6104 is amended by revising section 6104(b), by adding new sections 6104(c) and (d), and by revising the historical note. These revised and added provisions read as follows:

**§ 301.6104 Statutory provisions; publicity of information required from certain exempt organizations and certain trusts.**

SEC. 6104. *Publicity of information required from certain exempt organizations and certain trusts. \* \* \**

(b) *Inspection of annual information returns.* The information required to be furnished by sections 6033, 6034, and 6056, together with the names and addresses of such organizations and trusts, shall be made available to the public at such times and in such places as the Secretary or his delegate may prescribe. Nothing in this subsection shall authorize the Secretary or his delegate to disclose the name or address of any contributor to any organization or trust (other than a private foundation, as defined in section 509(a)) which is required to furnish such information.

(c) *Publication to State officials—(1) General rule.* In the case of any organization which is described in section 501(c) (3) and exempt from taxation under section 501(a), or has applied under section 508(a) for recognition as an organization described in section 501(c) (3), the Secretary or his delegate at such times and in such manner as he may by regulations prescribe shall—

(A) Notify the appropriate State officer of a refusal to recognize such organization as an organization described in section 501(c) (3), or of the operation of such organization in a manner which does not meet, or no longer meets, the requirements of its exemption,

(B) Notify the appropriate State officer of the mailing of a notice of deficiency of tax imposed under section 507 or chapter 42, and

(C) At the request of such appropriate State officer, make available for inspection and copying such returns, filed statements, records, reports, and other information, relating to a determination under subparagraph (A) or (B) as are relevant to any determination under State law.

(2) *Appropriate State officer.* For purposes of this subsection, the term "appropriate State officer" means the State attorney general, State tax officer, or any State official charged with overseeing organizations of the type described in section 501(c) (3).

(d) *Public inspection of private foundations' annual reports.* The annual report required to be filed under section 6056 (relating to annual reports by private foundations) shall be made available by the foundation managers for inspection at the principal office of the foundation during regular business hours by any citizen on request made within 180 days after the publication of notice of its availability. Such notice shall be published, not later than the day prescribed for filing such annual report (determined with regard to any extension of time for filing), in a newspaper having general circulation in the county in which the principal office of the private foundation is located. The notice shall state that the annual report of the private foundation is available at its principal office for inspection during regular business hours by any citizen who requests it within 180 days after the date of such publication, and shall state the address of the private foundation's principal office and the name of its principal manager.

[Sec. 6104 as amended by sec. 75(a), Technical Amendments Act 1958 (72 Stat. 1660), secs. 101(e) and 101(j) (36), Tax Reform Act 1969 (83 Stat. 523)]

PAR. 8. Section 301.6104-2 is amended to read as follows:

**§ 301.6104-2 Publicity of information on certain information returns and annual reports.**

(a) *In general.* The following information, together with the name and address of the organization or trust furnishing such information, shall be a matter of public record:

(1) Except as otherwise provided in section 6104 and the regulations thereunder, the information furnished on Forms 990, 990-P, and 4720.

(2) The information furnished pursuant to section 6034 (relating to returns by certain trusts) on Form 1041-A.

(3) The information furnished on the annual report required by section 6056 (relating to annual reports of private foundations). The names, addresses, and amounts of contributions or bequests of contributors to an organization other than a private foundation shall not be made available for public inspection under section 6104(b). The names, addresses, and amounts of contributions or bequests of persons who are not citizens of the United States to a foreign organization described in section 4948(b) shall not be made available for public inspection under section 6104(b).

(b) *Place of inspection.* Information furnished on the public portion of returns and annual reports (as described in paragraph (a) of this section) shall

be available to any person in the National Office, Office of the Director, Public Information Division, Internal Revenue Service, Washington, D.C. 20224, in the Office of the Director, Mid-Atlantic Regional Service Center, Philadelphia, Pa., and in the office of the district director of the district serving the principal place of business of the organization.

(c) *Procedure for public inspection*—  
 (1) *Requests for inspection.* The information furnished on Form 990, Form 990-P, Form 4720, Form 1041-A and the annual report required by section 6056 shall be available for public inspection under section 6104(b) only upon request. If inspection at the National Office is desired, the request shall be made in writing to the Commissioner of Internal Revenue, Attention: Director, Public Information Division, Washington, D.C. 20224. Requests for inspection in the office of a district director or Director of the Mid-Atlantic Regional Service Center shall be made in writing to the district director or Director of the Regional Service Center. All requests for inspection must include the name and address of the organization which filed the return or report, the type of return or report, and the taxable year for which filed.

(2) *Time and extent of inspection.* A person requesting public inspection in the manner specified in subparagraph (1) of this paragraph shall be notified by the Internal Revenue Service when the material he desires to inspect will be made available for his inspection. Information on Form 990, Form 990-P, Form 4720, Form 1041-A, and the annual report required by section 6056 will be made available for public inspection at such reasonable and proper times, and under such conditions, that will not interfere with their use by the Internal Revenue Service and will not exclude other persons from inspecting them. In addition, the Commissioner, director of the regional service center, or district director may limit the number of returns to be made available to any person for inspection on a given date. Inspection will be allowed only in the presence of an internal revenue officer or employee and only during the regular hours of business of the Internal Revenue Service office.

(3) *Returns available.* Returns filed before January 1, 1970, shall be available for public inspection only pursuant to the provisions of section 6104 in effect for such years. The information furnished on all returns and reports filed after December 31, 1969, pursuant to the requirements of section 6033, 6034, or 6056, shall be available for public inspection in accordance with the provisions of section 6104.

(4) *Copies.* Notes may be taken of the material opened for inspection under this section. Copies may be made manually or photographically in the National Office subject to reasonable supervision by the Public Information Division with regard to the facilities and equipment to be employed; and copies may be

made manually but not photographically in the offices of the district directors or directors of regional service centers (except that copies may be made photographically at the Mid-Atlantic Regional Service Center). Copies of the material opened for inspection will be furnished by the Internal Revenue Service to any person making request therefor. Request for such copies shall be made in the same manner as requests for inspection (see subparagraph (1) of this paragraph) to the office of the Internal Revenue Service in which such material is available for inspection as provided in paragraph (b) of this section. If made at the time of inspection, the request for copies need not be in writing. Any copies furnished will be certified upon request. The Commission may prescribe a reasonable fee for furnishing copies of information pursuant to this section.

PAR. 9. There is inserted immediately after § 301.6104-2, as amended, the following new sections:

§ 301.6104-3 Disclosure of certain information to State officers.

(a) *Notification of determinations*—

(1) *Automatic notification.* Upon making a determination described in paragraph (c) of this section, the Internal Revenue Service will notify the Attorney General and the principal tax officer of each of the following States of such determination without application or request by such State officer—

(i) In the case of any organization described in section 501(c)(3), the State in which the principal office of the organization is located (as shown on the last-filed Form 990, or on the application for exemption if no Form 990 has been filed), and the State in which the organization was incorporated, or if a trust, in which it was created, and

(ii) In the case of a private foundation, each State which the organization was required to list as an attachment to its last-filed Form 990 pursuant to § 1.6033-2(a)(2)(iv).

(2) *Applications for notification by other State officers.* Other officers of States described in subparagraph (1) of this paragraph, and officers of States not described in such subparagraph, may request that they be notified (either generally or with respect to a particular organization or type of organization) of determinations described in paragraph (c) of this section. In such cases, these State officers must show that they are appropriate State officers within the meaning of section 6104(c)(2). The required showing may be made by presenting a letter from the Attorney General of the State setting forth (i) the functions and authority of the State officer under State law, and (ii) sufficient facts for the Internal Revenue Service to determine that such officer is an appropriate State officer within the meaning of section 6104(c)(2).

(3) *Manner of notification.* A State officer who is entitled to be notified of a determination under this paragraph will be notified by sending him a copy of the

communication from the Internal Revenue Service to the organization which informs such organization of the determination.

(b) *Inspection by State Officers*—(1) *In general.* After a determination described in paragraph (c) of this section has been made, appropriate State officers within the meaning of section 6104(c)(2) may inspect the material described in subparagraph (3) of this paragraph. Such material may be inspected at an office of the Internal Revenue Service which will be designated upon receipt of a request for inspection; the location of such office will be determined with due consideration of the needs of the Internal Revenue Service and the needs of the State officer entitled to inspect.

(2) *State officers who may inspect material.* Any State officer entitled to be notified of a determination without application (under paragraph (a)(1) of this section) may inspect the material described in subparagraph (3) of this paragraph upon demonstrating that he is so entitled. Any State officer who has in fact been notified by the Internal Revenue Service of a determination may inspect such material without further demonstration, unless it shall be determined by the Internal Revenue Service that such officer was not entitled to be so notified. Other State officers must demonstrate to the satisfaction of the Internal Revenue Service that they are entitled to be notified under paragraph (a)(2) of this section before they may inspect such material.

(3) *Material which may be inspected.*

(i) Except as provided in subdivision (ii) of this subparagraph, a State officer who is so entitled under subparagraphs (1) and (2) of this paragraph will be permitted to inspect and copy all returns, filed statements, records, reports, and other information relating to a determination described in paragraph (c) of this section which is relevant to a determination under State law, and which is in the hands of the Internal Revenue Service.

(ii) The following material will not be made available for inspection by State officers under section 6104(c) and this section—

(a) Interpretations by the Internal Revenue Service or other federal agency of federal laws (including the Internal Revenue Code of 1954 and its predecessors) which would not otherwise be made available to State officers under section 6103(b),

(b) Reports of informers, or any other material which would disclose the identity, or threaten the safety or anonymity, of an informer,

(c) Returns of persons (other than those exempt from taxation) which would not be available under section 6103(b) to the State officer requesting inspection, or

(d) Other material the disclosure of which the Commissioner has determined would prejudice the proper administration of the internal revenue laws.

(4) *Statement by State officer.* Before any State officer will be permitted to inspect material described in this paragraph, he must submit a statement to the Internal Revenue Service that he intends to use such material solely in fulfilling his functions under State law relating to organizations of the type described in section 501(c)(3); material is made available to State officers under this section in reliance on such statements. For provisions relating to penalties for misuse of information which is made available under section 6104(c) and this section, see 18 U.S.C. 1001.

(c) *Determinations defined.* For purposes of this section, a determination means a final determination by the Internal Revenue Service that—

(1) An organization is refused recognition as an organization described in section 501(c)(3), or has been operated in such a manner that it will not, or will no longer, be recognized as meeting the requirements for exemption under that section, or

(2) A deficiency of tax exists under section 507 or chapter 42.

For purposes of this paragraph, a determination by the Internal Revenue Service is not final until all administrative review with respect to such determination has been completed. For purposes of this section, a waiver of restrictions on assessment and collection of deficiency in tax is treated as a final determination that a deficiency of tax exists when such waiver has been finally accepted by the Internal Revenue Service. For example, a final determination that a deficiency of tax exists under section 507 or chapter 42 is made when the organization is sent a notice of deficiency with respect to such tax.

(d) *Effective date.* The provisions of this section apply with respect to all determinations made after December 31, 1969.

**§ 301.6104-4 Public inspection of private foundations' annual reports.**

(a) *In general.* The annual report which a private foundation must file under section 6056 shall be made available by its foundation managers for inspection at its principal office during regular business hours by any citizen on request made within 180 days after the publication of notice of the availability of such report. Such notice shall be published not later than the day prescribed for filing such report (determined with regard to any extension of time for filing) in a newspaper having general circulation in the county in which the foundation's principal office is located. The notice shall state that the annual report is available at the foundation's principal office for inspection during regular business hours by any citizen who requests inspection within 180 days after the date of such publication, and shall state the address of the foundation's principal office and the name of its principal manager.

(b) *Definitions and special rules—(1) Principal office.* For purposes of the notice described in section 6104(d), a private foundation may designate in addition to its principal office, or (if the foundation has no principal office or none other than the residence of a substantial contributor or foundation manager) in lieu of such office, any other location at which its annual report shall be made available in the manner and at the time prescribed therefor in section 6104(d).

(2) *Newspaper having general circulation.* The term "newspaper having general circulation" in section 6104(d) shall include any newspaper or journal which is permitted to publish statements in satisfaction of State statutory requirements relating to transfers of title to real estate or other similar legal notices.

(3) *Principal manager.* A private foundation may furnish the name of its "principal manager" in the notice required by section 6104(d) by furnishing the name of the individual foundation manager who is responsible for publishing such notice or for making the annual report available for inspection under section 6104(d).

(c) *Cross-reference.* For additional rules with respect to private foundations' annual reports and their public inspection, see section 6056 and the regulations thereunder.

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

HAROLD T. SWARTZ,  
Acting Commissioner of  
Internal Revenue.

Approved: May 24, 1971.

JOHN S. NOLAN,  
Acting Assistant Secretary  
of the Treasury.

[FR Doc.71-7911 Filed 6-7-71; 8:45 am]

[T.D. 7125]

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

**Extension of Transitional Period for Pooled Income Funds**

In order to extend the transitional period in which certain funds may conform to the requirements of section 642(c)(5) of the Internal Revenue Code of 1954, and to modify the rule on severance of the value of a remainder interest from a pooled income fund, the Income Tax Regulations (26 CFR Part 1) are hereby amended as follows:

PARAGRAPH 1. Section 1.642(c)-5 is amended by revising paragraph (b) (8) to read as follows:

**§ 1.642(c)-5 Definition of pooled income fund.**

(b) *Requirements for qualification as a pooled income fund.* \* \* \*

(8) *Termination of life income interest.* Upon the termination of the income

interest retained or created by any donor, the trustee shall sever from the fund an amount equal to the value of the remainder interest in the property upon which the income interest is based. The value of the remainder interest for such purpose may be either (i) its value as of the determination date next succeeding the termination of the income interest or (ii) its value as of the date on which the last regular payment was made before the death of the beneficiary if the income interest is terminated on such payment date. The amount so severed from the fund must either be paid to, or retained for the use of, the designated public charity, as provided in the governing instrument. However, see subparagraph (3) of this paragraph for rules relating to commingling of property.

PAR. 2. Section 1.642(c)-7 is amended by revising paragraphs (a) (2) and (c) (1) to read as follows:

**§ 1.642(c)-7 Transitional rules with respect to pooled income funds.**

(a) *In general.* \* \* \*

(2) *Severance of a portion of a fund.* Any portion of a fund created before May 7, 1971, which consists of property transferred to such fund after July 31, 1969, may be severed from such fund consistently with the principles of paragraph (c) (2) of this section and established before January 1, 1972, as a separate pooled income fund, provided that on and after the date of severance the severed fund meets all the requirements of section 642(c)(5) and § 1.642(c)-5. A separate fund which is established pursuant to this subparagraph shall be treated as provided in paragraph (d) of this section for the period beginning on the day of the first transfer of property which becomes part of the separate fund and ending the day before the day on which the separate fund meets the requirements of section 642(c)(5) and § 1.642(c)-5.

(c) *Amendment requirements.* (1) A fund described in paragraph (a) (1) of this section and possessing the initial characteristics described in paragraph (b) of this section on the date prescribed therein shall be treated as a pooled income fund if it is amended to meet all the requirements of section 642(c)(5) and § 1.642(c)-5 before January 1, 1972, or, if later, on or before the 30th day after the date on which any judicial proceedings commenced before January 1, 1972, which are required to amend its governing instrument or any other instrument which does not permit it to meet such requirements, become final. However, see paragraph (d) of this section for limitation on the period in which a claim for credit or refund may be filed.

Because publication of this Treasury decision at an early date is necessary to

facilitate compliance with the requirements for qualifying as a pooled income fund, it is hereby found impracticable to issue this Treasury decision with notice and public procedure thereon under 5 U.S.C., section 553(b), or subject to the effective date limitation of 5 U.S.C. section 553(d).

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

[SEAL] RANDOLPH W. THROWER,  
*Commissioner of Internal Revenue.*

Approved: June 4, 1971.

EDWIN S. COHEN,  
*Assistant Secretary  
of the Treasury.*

[FR Doc.71-8064 Filed 6-7-71;10:28 am]

## Title 46—SHIPPING

### Chapter II—Maritime Administration, Department of Commerce

#### SUBCHAPTER C—REGULATIONS AFFECTING SUBSIDIZED VESSELS AND OPERATORS

[General Order 13, Rev.]

#### PART 251—APPLICATIONS FOR SUB- SIDIES AND OTHER DIRECT FINAN- CIAL AID

##### Applications for Operating- Differential Subsidy

Effective upon the date of publication hereof in the FEDERAL REGISTER (6-9-71) the heading of this part is changed to read as set forth above, and § 251.11 is revised to read as follows:

§ 251.11 Applications under Title VI, Merchant Marine Act, 1936, as amended.

(a) Applications under title VI of the Act for subsidy to aid in the operation of vessels in the foreign commerce of the United States shall be filed on Form MA-632 in accordance with the instructions annexed thereto.

(b) Copies of Form MA-632 may be obtained on request from the Secretary, Maritime Subsidy Board, Washington, D.C., 20235.

Dated: June 1, 1971.

By Order of the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,  
*Secretary.*

[FR Doc.71-8046 Filed 6-7-71;9:27 am]

# Proposed Rule Making

## DEPARTMENT OF THE TREASURY

Internal Revenue Service

[ 26 CFR Part 53 ]

### FAILURE TO DISTRIBUTE INCOME

#### Notice of Proposed Rule Making

Notice is hereby given that the regulations set forth in tentative form in the attached appendix are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, attention: CC:LR:T, Washington, D.C. 20224, by July 8, 1971. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by July 8, 1971. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] RANDOLPH W. THROWER,  
Commissioner of Internal Revenue.

The following regulations are prescribed in order to conform the Excise Tax Regulations (26 CFR Part 53) to section 4942 of the Internal Revenue Code of 1954, relating to taxes on failure to distribute income, as added by section 101(b) of the Tax Reform Act of 1969 (83 Stat. 502). Except where otherwise specifically provided, these regulations are applicable for taxable years beginning after December 31, 1969.

PARAGRAPH 1. The following new sections are added immediately after §53.4941—:

#### DISTRIBUTION OF FOUNDATION INCOME

Sec.	
53.4942	Statutory provision; taxes on failure to distribute income.
53.4942(a)-1	Taxes for failure to distribute income.
53.4942(a)-2	Computation of undistributed income.
53.4942(a)-3	Qualifying distributions defined.
§ 53.4942	Statutory provisions; taxes on failure to distribute income.

Sec. 4942. Taxes on failure to distribute income—(a) *Initial tax.* There is hereby im-

posed on the undistributed income of a private foundation for any taxable year, which has not been distributed before the first day of the second (or any succeeding) taxable year following such taxable year (if such first day falls within the taxable period), a tax equal to 15 percent of the amount of such income remaining undistributed at the beginning of such second (or succeeding) taxable year. The tax imposed by this subsection shall not apply to the undistributed income of a private foundation—

(1) For any taxable year for which it is an operating foundation (as defined in subsection (j) (3)), or

(2) To the extent that the foundation failed to distribute any amount solely because of an incorrect valuation of assets under subsection (e), if—

(A) The failure to value the assets properly was not willful and was due to reasonable cause,

(B) Such amount is distributed as qualifying distributions (within the meaning of subsection (g)) by the foundation during the allowable distribution period (as defined in subsection (j) (4)),

(C) The foundation notifies the Secretary or his delegate that such amount has been distributed (within the meaning of subparagraph (B)) to correct such failure, and

(D) Such distribution is treated under subsection (h) (2) as made out of the undistributed income for the taxable year for which a tax would (except for this paragraph) have been imposed under this subsection.

(b) *Additional tax.* In any case in which an initial tax is imposed under subsection (a) on the undistributed income of a private foundation for any taxable year, if any portion of such income remains undistributed at the close of the correction period, there is hereby imposed a tax equal to 100 percent of the amount remaining undistributed at such time.

(c) *Undistributed income.* For purposes of this section, the term "undistributed income" means, with respect to any private foundation for any taxable year as of any time, the amount by which—

(1) The distributable amount for such taxable year, exceeds

(2) The qualifying distributions made before such time out of such distributable amount.

(d) *Distributable amount.* For purposes of this section, the term "distributable amount" means, with respect to any foundation for any taxable year, an amount equal to—

(1) The minimum investment return or the adjusted net income (whichever is higher), reduced by

(2) The sum of the taxes imposed on such private foundation for the taxable year under subtitle A and section 4940.

(e) *Minimum investment return.*

(1) *In general.* For purposes of subsection (d), the minimum investment return for any private foundation for any taxable year is the amount determined by multiplying—

(A) The excess of (i) the aggregate fair market value of all assets of the foundation other than those being used (or held for use) directly in carrying out the foundation's exempt purpose over (ii) the acquisition indebtedness with respect to such assets (determined under section 514(c) (1), but without regard to the taxable year in which the indebtedness was incurred), by

(B) The applicable percentage for such year, determined under paragraph (3).

(2) *Valuation.* For purposes of paragraph (1) (A), the fair market value of securities for which market quotations are readily available shall be determined on a monthly basis. For all other assets, the fair market value shall be determined at such times and in such manner as the Secretary or his delegate shall by regulations prescribe.

(3) *Applicable percentage.* For purposes of paragraph (1) (B), the applicable percentage for taxable years beginning in 1970 is 0 percent. The applicable percentage for any taxable year beginning after 1970 shall be determined and published by the Secretary or his delegate and shall bear a relationship to 0 percent which the Secretary or his delegate determines to be comparable to the relationship which the money rates and investment yields for the calendar year immediately preceding the beginning of the taxable year bear to the money rates and investment yields for the calendar year 1969.

(4) *Transitional rules—*

For special rules applicable to organizations created before May 27, 1969, see section 101(1) (3) of the Tax Reform Act of 1969.

(f) *Adjusted net income—*

(1) *Defined.* For purposes of subsection (d), the term "adjusted net income" means the excess (if any) of—

(A) The gross income for the taxable year (determined with the income modifications provided by paragraph (2)), over

(B) The sum of the deductions (determined with the deduction modifications provided by paragraph (3)) which would be allowed to a corporation subject to the tax imposed by section 11 for the taxable year.

(2) *Income modifications.* The income modifications referred to in paragraph (1) (A) are as follows:

(A) Section 103 (relating to interest on certain governmental obligations) shall not apply.

(B) Capital gains and losses from the sale or other disposition of property shall be taken into account only in an amount equal to any net short-term capital gain for the taxable year; and

(C) There shall be taken into account—

(i) Amounts received or accrued as repayments of amounts which were taken into account as a qualifying distribution within the meaning of subsection (g) (1) (A) for any taxable year;

(ii) Notwithstanding subparagraph (B), amounts received or accrued from the sale or other disposition of property to the extent that the acquisition of such property was taken into account as a qualifying distribution (within the meaning of subsection (g) (1) (B)) for any taxable year; and

(iii) Any amount set aside under subsection (g) (2) to the extent it is determined that such amount is not necessary for the purposes for which it was set aside.

(3) *Deduction modifications.* The deduction modifications referred to in paragraph (1) (B) are as follows:

(A) No deduction shall be allowed other than all the ordinary and necessary expenses paid or incurred for the production or collection of gross income or for the management, conservation, or maintenance of property held for the production of such income and the allowances for depreciation and depletion determined under section 4940 (c) (3) (B), and

(B) Section 265 (relating to expenses and interest relating to tax-exempt interest) shall not apply.

(4) *Transitional rule.* For purposes of paragraph (2) (B), the basis (for purposes of determining gain) of property held by a private foundation on December 31, 1969, and continuously thereafter to the date of its disposition, shall be deemed to be not less than the fair market value of such property on December 31, 1969.

(g) *Qualifying distributions defined.*

(1) *In general.* For purposes of this section, the term "qualifying distribution" means—

(A) Any amount (including administrative expenses) paid to accomplish one or more purposes described in section 170(c) (2) (B), other than any contribution to (1) an organization controlled (directly or indirectly) by the foundation or one or more disqualified persons (as defined in section 4946) with respect to the foundation, except as provided in paragraph (3), or (ii) a private foundation which is not an operating foundation (as defined in subsection (j) (3)), except as provided in paragraph (3), or

(B) Any amount paid to acquire an asset used (or held for use) directly in carrying out one or more purposes described in section 170(c) (2) (B).

(2) *Certain set-asides.* Subject to such terms and conditions as may be prescribed by the Secretary or his delegate, an amount set aside for a specific project which comes within one or more purposes described in section 170(c) (2) (B) may be treated as a qualifying distribution, but only if, at the time of the set-aside, the private foundation establishes to the satisfaction of the Secretary or his delegate that—

(A) The amount will be paid for the specific project within 5 years, and

(B) The project is one which can be better accomplished by such set-aside than by immediate payment of funds.

For good cause shown, the period for paying the amount set aside may be extended by the Secretary or his delegate.

(3) *Certain contributions to section 501(c) (3) organizations.* For purposes of this section, the term "qualifying distribution" includes a contribution to a section 501(c) (3) organization described in paragraph (1) (A) (i) or (ii) if—

(A) Not later than the close of the first taxable year after its taxable year in which such contribution is received, such organization makes a distribution equal to the amount of such contribution and such distribution is a qualifying distribution (within the meaning of paragraph (1) or (2), without regard to this paragraph) which is treated under subsection (h) as a distribution out of corpus (or would be so treated if such section 501(c) (3) organization were a private foundation which is not an operating foundation), and

(B) The private foundation making the contribution obtains adequate records or other sufficient evidence from such organization showing that the qualifying distribution described in subparagraph (A) has been made by such organization.

(h) *Treatment of qualifying distributions.*

(1) *In general.* Except as provided in paragraph (2), any qualifying distribution made during a taxable year shall be treated as made—

(A) First out of the undistributed income of the immediately preceding taxable year (if the private foundation was subject to the tax imposed by this section for such preceding taxable year) to the extent thereof,

(B) Second out of the undistributed in-

come for the taxable year to the extent thereof, and

(C) Then out of corpus.

For purposes of this paragraph, distributions shall be taken into account in the order of time in which made.

(2) *Correction of deficient distributions for prior taxable years, etc.* In the case of any qualifying distribution which (under paragraph (1)) is not treated as made out of the undistributed income of the immediately preceding taxable year, the foundation may elect to treat any portion of such distribution as made out of the undistributed income of a designated prior taxable year or out of corpus. The election shall be made by the foundation at such time and in such manner as the Secretary or his delegate shall by regulations prescribe.

(i) *Adjustment of distributable amount where distributions during prior years have exceeded income.*

(1) *In general.* If, for the taxable years in the adjustment period for which an organization is a private foundation—

(A) The aggregate qualifying distributions treated (under subsection (h)) as made out of the undistributed income for such taxable year or as made out of corpus (except to the extent subsection (g) (3) with respect to the recipient private foundation or section 170(b) (1) (E) (ii) applies) during such taxable years, exceed

(B) The distributable amounts for such taxable years (determined without regard to this subsection),

then, for purposes of this section (other than subsection (h)), the distributable amount for the taxable year shall be reduced by an amount equal to such excess.

(2) *Taxable years in adjustment period.* For purposes of paragraph (1), with respect to any taxable year of a private foundation the taxable years in the adjustment period are the taxable years (not exceeding five) beginning after December 31, 1969, and immediately preceding the taxable year.

(j) *Other definitions.* For purposes of this section—

(1) *Taxable period.* The term "taxable period" means, with respect to the undistributed income for any taxable year, the period beginning with the first day of the taxable year and ending on the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (a) under section 6212.

(2) *Correction period.* The term "correction period" means, with respect to any private foundation for any taxable year, the period beginning with the first day of the taxable year and ending 90 days after the date of mailing of a notice of deficiency (with respect to the tax imposed by subsection (b)) under section 6212, extended by—

(A) Any period in which a deficiency cannot be assessed under section 6213(a), and

(B) Any other period which the Secretary or his delegate determines is reasonable and necessary to permit a distribution of undistributed income under this section.

(4) *Allowable distribution period.* The term "allowable distribution period" means, with respect to any private foundation, the period beginning with the first day of the first taxable year following the taxable year in which the incorrect valuation (described in subsection (a) (2)) occurred and ending 90 days after the date of mailing of a notice of deficiency (with respect to the tax imposed by subsection (a)) under section 6212 extended by—

(A) Any period in which a deficiency cannot be assessed under section 6213(a), and

(B) Any other period which the Secretary or his delegate determines is reasonable and necessary to permit a distribution of undistributed income under this section.

(5) *Functionally related business.* The term "functionally related business" means—

(A) A trade or business which is not an unrelated trade or business (as defined in section 513), or

(B) An activity which is carried on within a larger aggregate of similar activities or within a larger complex of other endeavors which is related (aside from the need of the organization for income or funds or the use it makes of the profits derived) to the exempt purposes of the organization.

[Sec. 4942 as added by sec. 101(b), Tax Reform Act 1969 (83 Stat. 502)]

§ 53.4942(a)-1 Taxes for failure to distribute income.

(a) *Imposition of tax—(1) Initial tax.* Except as provided in paragraph (b) of this section, section 4942(a) imposes an excise tax of 15 percent on the undistributed income (as defined in section 4942 (c) and paragraph (a) of § 53.4942(a)-2) of a private foundation for any taxable year which has not been distributed before the first day of the second (or any succeeding) taxable year following such taxable year (if such first day falls within the taxable period as defined in paragraph (c) (1) of this section). For purposes of section 4942 and this section, the term "distributed" means distributed as qualifying distributions under section 4942(g). See section 4942(h) (2) and paragraph (d) (3) of § 53.4942(a)-3 with respect to correction of deficient distributions for prior taxable years.

(2) *Additional tax.* In any case in which an initial excise tax is imposed by section 4942(a) and subparagraph (1) of this paragraph on the undistributed income of a private foundation for any taxable year, section 4942(b) imposes an additional excise tax on any portion of such income remaining undistributed at the close of the correction period (as defined in section 4942(j) (2) and paragraph (c) (3) of this section). The tax imposed by section 4942(b) and this subparagraph is equal to 100 percent of the amount remaining undistributed at the close of the correction period. Payment of such tax with respect to the undistributed income of the foundation for any taxable year is in addition to, and not in lieu of, making the distribution of such undistributed income as required by section 4942. See section 507(a) (2) and the regulations thereunder.

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

*Example (1).* M, as private foundation, uses the calendar year as its taxable year. At the end of 1971, M has undistributed income (as defined in section 4942(c) and paragraph (a) of § 53.4942(a)-2) for 1971 of \$50,000. As of January 1, 1973, \$40,000 of such sum is still undistributed and on August 15, 1973, a notice of deficiency with respect to the excise tax imposed under subparagraph (1) of

this paragraph is mailed under section 6212 (a) to M. Thus, under the given facts, an initial excise tax of \$6,000 (15 percent of \$40,000) is imposed upon M.

*Example (2).* Assume the facts as stated in Example (1), except that as of November 13, 1973 (the close of the correction period), there remains undistributed income of \$20,000 from 1971. Hence, an additional excise tax of \$20,000 (100 percent of \$20,000) is imposed under subparagraph (2) of this paragraph.

*Example (3).* Assume the facts as stated in Example (1), except that the notice of deficiency is not mailed to M until September 1, 1974, and as of January 1, 1974, only \$10,000 of the \$50,000 of undistributed income with respect to 1971 is undistributed. Therefore, initial excise taxes of \$6,000 (15 percent of \$40,000, M's undistributed income from 1971, as of January 1, 1973) and \$1,500 (15 percent of \$10,000, M's undistributed income from 1971, as of January 1, 1974) are imposed under subparagraph (1) of this paragraph.

*Example (4).* Assume the facts as stated in Example (3) and that at the end of the correction period, November 30, 1974, the \$10,000 of undistributed income from 1971 remains undistributed. Thus, an additional tax of \$10,000 (100 percent of \$10,000, M's undistributed income from 1971, as of November 30, 1974, the last day of the correction period) is imposed under subparagraph (2) of this paragraph.

(b) *Exceptions.* The initial excise tax imposed by section 4942(a) and paragraph (a)(1) of this section shall not apply to the undistributed income of a private foundation—

(1) For any taxable year for which it is an operating foundation (as defined in section 4942(j)(3) and the regulations thereunder), or

(2) To the extent that the foundation failed to distribute any amount solely because of incorrect valuation of assets under section 4942(e)(2) and paragraph (c)(2) of § 53.4942(a)-2, if—

(i) The failure to value the assets properly was not willful and was due to reasonable cause,

(ii) Such amount is distributed as qualifying distributions (within the meaning of section 4942(g) and paragraph (a) of § 53.4942(a)-3) by the foundation during the allowable distribution period (as defined in section 4942(j)(4) and paragraph (c)(2) of this section),

(iii) The foundation notifies the Commissioner or his delegate that such amount has been distributed (within the meaning of subdivision (ii) of this subparagraph) to correct such failure, and

(iv) Such distribution is treated under section 4942(h)(2) and paragraph (d)(3) of § 53.4942(a)-3 as made out of the undistributed income for the taxable year for which a tax would (except for this subparagraph) have been imposed under paragraph (a) of this section.

For purposes of subparagraph (2)(i) of this paragraph, the terms "willful" and "due to reasonable cause" shall have the same meaning as in section 4945(a)(2) and the regulations thereunder. Failure to value an asset properly shall be regarded as "not willful" and "due to reasonable cause" whenever, under all the facts and circumstances, the foundation

can show that it has made all reasonable efforts in good faith to value such asset in accordance with the provisions of paragraph (c)(2) of § 53.4942(a)-2. The provisions of this paragraph may be illustrated by the following example:

*Example.* In 1976 M, a private foundation which was established in 1975 and is a calendar year taxpayer, incorrectly values its assets under section 4942(e) in a manner which is not willful and is due to reasonable cause. As a result of the incorrect valuation of assets, \$20,000 which should be distributed with respect to 1976 is not distributed, and as of January 1, 1978, such amount is still undistributed. On March 29, 1978, a notice of deficiency with respect to the excise tax imposed under paragraph (a)(1) of this section is mailed under section 6212(a) to M. On May 5, 1978 (within the allowable distribution period), M makes a qualifying distribution of \$20,000 which is treated under section 4942(h)(2) and paragraph (d)(3) of § 53.4942(a)-3 as made out of M's undistributed income for 1976. M notifies the Commissioner or his delegate of its action. Under the stated facts, an initial excise tax of \$3,000 (15 percent of \$20,000) would (except for this subparagraph) have been imposed by paragraph (a)(1) of this section, but since all of the requirements of this subparagraph are satisfied no tax is imposed under paragraph (a)(1) of this section.

(c) *Certain periods.*—(1) *Taxable period.* (i) Section 4942(j)(1) provides that the term "taxable period" means, with respect to the undistributed income of a private foundation for any taxable year, the period beginning with the first day of the taxable year and ending on the date of mailing of a notice of deficiency under section 6212(a) with respect to the initial excise tax imposed under section 4942(a) and paragraph (a)(1) of this section. For example, M, a private foundation which uses the calendar year as its taxable year, has \$15,000 of undistributed income for 1971. A notice of deficiency is mailed under section 6212(a) to M on March 1, 1973. With respect to the undistributed income of M for 1971, the taxable period began on January 1, 1971, and ended on March 1, 1973.

(ii) Where a notice of deficiency referred to in subdivision (i) of this subparagraph is not mailed because there is a waiver of the restrictions on assessment and collection of a deficiency, or because the deficiency is paid, the date of filing of the waiver or the date of such payment, respectively, shall be treated as the end of the taxable period.

(2) *Allowable distribution period.* (i) Section 4942(j)(4) provides that the term "allowable distribution period" means, with respect to any private foundation, the period beginning with the first day of the first taxable year following the taxable year in which the incorrect valuation of foundation assets (described in paragraph (b)(2) of this section) occurred and ending 90 days after the date of mailing of a notice of deficiency under section 6212(a) with respect to the initial excise tax imposed by paragraph (a)(1) of this section. This period shall be extended by any period in which a deficiency cannot be assessed under section 6213(a), and any other

period which the Commissioner or his delegate determines is reasonable and necessary to permit a distribution of undistributed income under section 4942.

(ii) Where a notice of deficiency referred to in subdivision (i) of this subparagraph is not mailed because there is a waiver of the restrictions on assessment and collection of a deficiency, or because the deficiency is paid, the date of filing of the waiver or the date of such payment, respectively, shall be treated as the end of the allowable distribution period.

(3) *Correction period.*—(i) *In general.* (a) For purposes of section 4942 the term "correction period" means, with respect to any private foundation for any taxable year, the period beginning with the first day of the taxable year and ending 90 days after the date of mailing of a notice of deficiency under section 6212(a) with respect to the additional excise tax imposed under section 4942(b) and paragraph (a)(2) of this section. This period shall be extended by any period in which a deficiency cannot be assessed under section 6213(a) and by any other period which the Commissioner or his delegate determines is reasonable and necessary to permit a distribution of undistributed income under section 4942.

(b) Where a notice of deficiency referred to in (a) of this subdivision is not mailed because there is a waiver of the restrictions on assessment and collection of a deficiency, or because the deficiency is paid, the date of filing of the waiver or the date of such payment, respectively, shall be treated as the end of the correction period.

(ii) *Extension of correction period.* Except as provided in subdivision (iii) of this subparagraph, the Commissioner or his delegate ordinarily will not extend the correction period under this subparagraph unless the following factors are present:

(a) The foundation or an appropriate State officer (as defined in section 6104(c)(2)) is in good faith actively seeking to take adequate corrective action;

(b) Adequate corrective action cannot reasonably be expected to result during the unextended correction period; and

(c) The failure to distribute appears to have been an isolated occurrence which is unlikely to recur in the future.

(iii) *Claim for refund.* If a foundation files a claim for refund with respect to a tax imposed under section 4942(a)(1) within the unextended correction period, the Commissioner shall extend the correction period during the pendency of the claim. If such claim is denied, the correction period will be extended by an additional 90 days to permit the foundation to file a suit or proceeding referred to in section 7422(b) with respect to such claim or to make the required correction. If such suit or proceeding is filed, the correction period will be extended during the pendency of such suit or proceeding.

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

**Example (1).** In 1975 private foundation M made an error in valuing its assets which was not willful and was due to reasonable cause. The error caused M not to distribute \$25,000 that should have been distributed with respect to 1975. M uses the calendar year as its taxable year. On March 1, 1978, a notice of deficiency with respect to the excise taxes imposed under paragraphs (a) (1) and (2) of this section was mailed under section 6212(a) to M. With respect to the undistributed income for 1975, the "taxable period" is the period from January 1, 1975, through March 1, 1978, and the "allowable distribution period" is the period from January 1, 1976, through May 30, 1978 (90 days after the mailing of the notice of deficiency).

**Example (2).** Assume the facts as stated in Example (1), except that the Commissioner or his delegate determines that it is reasonable and necessary to extend the period for distribution through June 15, 1978. Thus, the "allowable distribution period" is from January 1, 1976, through June 15, 1978.

**Example (3).** Assume the facts as stated in Example (1). The "correction period" is from January 1, 1975, through May 30, 1978, unless M has filed a petition in the Tax Court contesting such deficiency or a claim for refund before May 30, 1978.

#### § 53.4942(a)-2 Computation of undistributed income.

(a) *Undistributed income.* For purposes of section 4942, the term "undistributed income" means, with respect to any private foundation for any taxable year as of any time, the amount by which—

(1) The distributable amount (as defined in section 4942(d) and paragraph (b) of this section) for such taxable year exceeds

(2) The qualifying distributions (as defined in section 4942(g) and § 53.4942(a)-3) made before such time out of such distributable amount.

(b) *Distributable amount.* For purposes of section 4942, the term "distributable amount" means, with respect to any private foundation for any taxable year, an amount equal to the higher of the minimum investment return (as defined in section 4942(e) and paragraph (c) of this section) or the adjusted net income (as defined in section 4942(f) and paragraph (d) of this section), reduced by the sum of the taxes imposed on such private foundation for such taxable year under subtitle A of the Code and section 4940.

(c) *Minimum investment return.*—(1) *In general.*—(i) *Assets held for production of income.* For purposes of section 4942(d) and paragraph (b) of this section, the "minimum investment return" for any private foundation for any taxable year is the amount determined by multiplying—

(a) The excess of the aggregate fair market value of all assets of the foundation, other than those used (or held for use) directly in carrying out the foundation's exempt purpose, over the amount of the acquisition indebtedness with respect to such assets (determined under section 514(c)(1), but without regard to the taxable year in which the indebtedness was incurred), by

(b) The applicable percentage (as defined in section 4942(e)(3) and sub-

paragraph (3) of this paragraph) for such year.

For purposes of (a) of this subdivision, the aggregate fair market value of all assets of the foundation shall include the average of the fair market values on a monthly basis of securities for which market quotations are readily available (within the meaning of subparagraph (2) (i) of this paragraph), the average of the foundation's cash balances on a monthly basis, and the fair market value of all other assets (within the meaning of subparagraphs (2) (ii) and (iii) of this paragraph) for the period of time during the year for which they are held by the foundation. For purposes of section 4942 and this subdivision, an asset is used (or held for use) directly in carrying out the foundation's exempt purpose only if the asset is actually used by the foundation in the carrying on of the charitable, educational or other similar function which gives rise to the exempt status of the foundation, or the foundation owns the asset and establishes to the satisfaction of the Commissioner or his delegate that its immediate use in such exempt functions is not practical (based on the facts and circumstances of the particular case) and that definite plans exist to commerce such use within a reasonable period of time. Consequently, assets which are held for the production of income or for investment (for example, stocks, bonds, interest-bearing notes, endowment funds, or real estate leased to other organizations) are not being used (or held for use) directly in carrying out such exempt functions, even though the income from such assets is used to carry out such exempt functions. Whether an asset is held for the production of income or for investment rather than being used (or held for use) directly by the foundation to carry out such exempt functions is a question of fact. For example, an office building used for the purpose of providing offices for employees engaged in the management of endowment funds of the foundation is not being used (or held for use) directly by the foundation to carry out its charitable, educational, or other similar exempt function. Real estate purchased by the foundation for use in carrying out its charitable, educational, or other similar exempt function may be considered as used (or held for use) directly to carry out such exempt function even though the property, in whole or in part, is leased for a limited period of time during which arrangements are made for its conversion to the use for which it was acquired, provided such income-producing use of the property does not last longer than 1 year.

(ii) *Certain assets excluded.* For purposes of this paragraph, the assets taken into account under section 4942(e)(1) (A) (i) shall not include the following:

(a) Administrative assets, such as office equipment and supplies which are used by employees or consultants of the foundation, to the extent such assets are devoted to and used directly in the administration of the foundation's

charitable, educational or other similar activities,

(b) Real estate or the portion of a building used by the foundation directly in its charitable, educational or other similar activities.

(c) Physical facilities used in such activities, such as paintings owned by the foundation and hung in a museum, fixtures in classrooms, research facilities and related equipment.

(d) Any interest of the foundation in a trust described in section 4947(a)(1), except for income of corpus which, although not actually reduced to the foundation's possession, has been constructively received by the foundation, as where it has been credited to the foundation's account, set apart for the foundation, or otherwise made available so that the foundation may draw upon it at any time or could have drawn upon it if notice of intention to withdraw had been given.

(e) Any future interest (such as a vested or contingent remainder) of a foundation in the income or corpus of a trust described in section 4947(a)(2) until all intervening interests in, and rights to the actual possession or enjoyment of, such income or corpus have expired (however, if a foundation has a current interest in the income of a trust described in section 4947(a)(2), the assets to which such income is attributable shall be taken into account under section 4942(e)(1)(A)(i)),

(f) Any pledge to the foundation of money or property (whether or not the pledge may be legally enforced), and

(g) Any interest in a functionally related business (as defined in subdivision (iii) of this subparagraph) or in a program-related investment (as defined in section 4944(c)).

(iii) *Functionally related business.* The term "functionally related business" means—

(a) A trade or business which is not an unrelated trade or business (as defined in section 513), or

(b) An activity which is carried on within a larger aggregate of similar activities or within a larger complex of other endeavors which is related (aside from the need of the organization for income or funds or the use it makes of the profits derived) to the exempt purposes of the organization.

The provisions of this subdivision may be illustrated by the following examples:

**Example (1).** X, a private foundation, maintains a community of historic value which is open to the general public. For the convenience of the public, X, through a wholly owned, separately incorporated, taxable entity, maintains a restaurant and hotel in such community. Such facilities are within the larger aggregate of activities which makes available for public enjoyment the various buildings of historic interest and which is related to X's exempt purpose. Thus, the operation of the restaurant and hotel under such circumstances constitutes a functionally related business.

**Example (2).** Y, a private foundation, as part of its medical research program under section 501(c)(3), publishes a medical

journal in furtherance of its exempt purposes. Space in the journal is sold for commercial advertising. Notwithstanding the fact that the advertising activity may be subject to the tax imposed by section 511, such activity is within a larger complex of endeavors which makes available to the scientific community and the general public developments with respect to medical research and is therefore a functionally related business.

(2) *Valuation of assets*—(i) *Certain securities*. For purposes of subparagraph (1) (i) of this paragraph, a private foundation may use any reasonable method to determine the fair market value on a monthly basis of securities for which market quotations are readily available, as long as such method is consistently used. For purposes of this subparagraph, market quotations are readily available if a security is:

(a) Listed on the New York Stock Exchange, the American Stock Exchange, or any city or regional exchange in which quotations appear on a daily basis, including foreign securities listed on a recognized foreign national or regional exchange;

(b) Regularly traded in the national or regional over-the-counter market, for which published quotations are available; or

(c) Locally traded, for which quotations can readily be obtained from established brokerage firms.

The term "securities" includes, but is not limited to, common and preferred stocks, bonds, and mutual fund shares.

(ii) *Other assets*. For purposes of this paragraph, with respect to all assets other than cash or assets described in subdivision (i) or (iii) of this subparagraph, a private foundation shall obtain an accurate independent appraisal of fair market value by a person who is not a disqualified person with respect to the foundation. The foundation shall retain a copy of the independent appraisal in its records. Such valuation shall be made at least once after December 31, 1969, and before the first day of the first taxable year of the foundation beginning after December 31, 1971. For purposes of this paragraph, the most recent valuation must be used, and such valuation may be used only for the taxable year in which it is made and the four immediately succeeding taxable years. Thus, a subsequent valuation must be made before the close of the fifth taxable year following the taxable year in which the most recent valuation was made. For purposes of section 4942, assets shall be valued in accordance with §§ 20.2031-1 through 20.2031-9, except where inconsistent with the provisions of this paragraph or the regulations under section 4942(j) (3).

(iii) *Certain unique assets*. For the valuation of assets which are unique and for which neither a ready market value nor standard valuation methods exist, see § 53.4942(b)-3(5).

(iv) *Income for taxable year*. For purposes of this paragraph, an amount equal to gross income for the taxable year (determined with the income modifica-

tions provided by section 4942(f) (2)) shall not be included in the aggregate fair market value of all assets of the foundation at any time during such year. However, to avoid a double exclusion, to the extent that:

(a) Deductions have been taken into account under section 4942(f) (1) (B) before such time which are properly allocable to such gross income, or

(b) Qualifying distributions have been made before such time out of the undistributed income of the foundation for such year under section 4942(h), an amount equal to such deductions and such qualifying distributions shall be included in such aggregate fair market value of all assets of the foundation.

(3) *Applicable percentage*—(i) *In general*. For purposes of section 4942(e) (1) (B) and subparagraph (1) (i) (b) of this paragraph, except as provided in subdivision (ii) of this subparagraph, the applicable percentage is 6 percent for any taxable year—

(a) Beginning in calendar year 1970, or

(b) Beginning in a calendar year following 1970, unless another percentage has been determined and published by the Secretary or his delegate.

The determination that a new applicable percentage is to be used for taxable years beginning in a specific calendar year will be published by March 1 of such calendar year. The latest published percentage shall apply for any taxable year beginning in the calendar year with respect to which publication is made and for any subsequent taxable year. The applicable percentage shall bear a relationship to 6 percent which the Secretary or his delegate determines to be comparable to the relationship which the average yield on 5-year Treasury securities for the calendar year immediately preceding the beginning of the taxable year bears to the average yield on 5-year Treasury securities for the calendar year 1969. Any adjustment in the applicable percentage shall be made only to the nearest one-half of one percent.

(ii) *Transitional rule*. In the case of organizations organized before May 27, 1969, section 4942 shall, for all purposes other than the determination of the minimum investment return under section 4942(j) (3) (B) (ii) (relating to operating foundations), for taxable years—

(a) Beginning before January 1, 1972, apply without regard to section 4942(e).

(b) Beginning in 1972, apply with an applicable percentage which is the lesser of 4½ percent or three-fourths of the applicable percentage prescribed in subdivision (i) of this subparagraph for 1972,

(c) Beginning in 1973, apply with an applicable percentage which is the lesser of 5 percent or five-sixths of the applicable percentage prescribed in subdivision (i) of this subparagraph for 1973, and

(d) Beginning in 1974, apply with an applicable percentage which is the lesser of 5½ percent or eleven-twelfths of the applicable percentage prescribed in sub-

division (i) of this subparagraph for 1974.

(d) *Adjusted net income*—(1) *Definition*. For purposes of section 4942(d) and paragraph (b) of this section, the term "adjusted net income" means the excess (if any) of—

(i) The gross income for the taxable year (including gross income from any unrelated trade or business) determined with the income modifications provided by section 4942(f) (2) and subparagraphs (2) and (5) of this paragraph, over

(ii) The sum of the deductions (including deductions directly connected with the carrying on of any unrelated trade or business), determined with the deduction modifications provided by section 4942(f) (3) and subparagraph (3) of this paragraph, which would be allowed to a corporation subject to the tax imposed by section 11 for the taxable year.

In computing the income includible under this paragraph as gross income and the deductions allowable under this paragraph from such income, the principles of subtitle A shall be utilized to the extent they are applicable to the definitions contained herein. Except as otherwise provided in this paragraph, no exclusions or deductions from gross income or credits against tax are allowable under this paragraph. For purposes of subdivision (i) of this subparagraph, the term "gross income" does not include gifts, grants, or contributions received by the private foundation but does include income from a functionally related business (as defined in paragraph (c) (1) (iii) of this section).

(2) *Income modifications*. The income modifications referred to in section 4942 (f) (1) (A) and subparagraph (1) (i) of this paragraph are as follows:

(i) Section 103 (relating to interest on certain governmental obligations) shall not apply. Hence, interest which would have been excluded from gross income by section 103 shall be included in gross income.

(ii) Capital gains and losses from the sale or other disposition of property shall be taken into account only in an amount equal to any net short-term capital gain (as defined in section 1222(5)) for the taxable year. Long-term capital gain or loss is not included in the computation of adjusted net income. Any net short-term capital loss for a given taxable year shall not be taken into account in computing adjusted net income for such year or in computing net short-term capital gain for purposes of determining adjusted net income for prior or future taxable years regardless of whether the foundation is a corporation or a trust.

(iii) There shall be included in gross income for the taxable year—

(a) Amounts received or accrued as repayments of amounts which were taken into account as a qualifying distribution within the meaning of section 4942(g) (1) (A) and paragraph (a) (1) (i) of § 53.4942(a)-3 for any taxable year,

(b) Notwithstanding section 4942(f) (2) (B) and subdivision (ii) of this subparagraph, amounts received or accrued from the sale or other disposition of property to the extent that the acquisition of such property was taken into account as a qualifying distribution (within the meaning of section 4942(g) (1) (B) and paragraph (a) (1) (ii) of § 53.4942(a)-3 for any taxable year), and

(c) Any amount set aside under section 4942(g) (2) and paragraph (b) of § 53.4942(a)-3 to the extent it is determined that such amount is not necessary for the purposes for which it was set aside.

For purposes of this subparagraph, a distribution of property for purposes described in section 170(c) (1) or (2) (B) shall not be treated as a sale or other disposition of property. For purposes of this subdivision, any amounts described in (a), (b), or (c) of this subdivision shall be included in full in gross income for the taxable year without regard to any basis in such amounts.

(3) *Deduction modifications*—(i) *In general.* For purposes of computing adjusted net income under subparagraph (1) of this paragraph, no deduction shall be allowed other than all the ordinary and necessary expenses paid or incurred for the production or collection of gross income or for the management, conservation, or maintenance of property held for the production of such income, except as provided in subdivision (ii) of this subparagraph. Such expenses include that portion of a private foundation's operating expenses which is paid or incurred for the production or collection of gross income. Operating expenses include compensation of officers, other salaries and wages of employees, interest, and rent and taxes. Where only a portion of the property produces (or is held for the production of) income subject to the provisions of section 4942, and the remainder of the property is used for exempt purposes, the deductions allowed by this subparagraph shall be apportioned between the exempt and nonexempt uses. However, this subdivision does not allow deductions which are not paid or incurred for the purposes herein prescribed. Thus, for example, the deductions prescribed by the following sections are not allowable: (a) The charitable contributions deduction prescribed under sections 170 and 642(c); (b) the net operating loss deduction prescribed under section 172; and (c) the special deductions prescribed under Part VIII, subchapter B, chapter 1.

(ii) *Special rules.* For purposes of computing adjusted net income under subparagraph (1) of this paragraph: (a) The allowances for depreciation and depletion as determined under section 4940(c) (3) (B) and the regulations thereunder shall be taken into account, and (b) section 265 (relating to expenses and interest relating to tax-exempt interest) shall not apply.

(4) *Basis.* (i) For purposes of subparagraph (2) (ii) of this paragraph, the basis

for purposes of determining gain from the sale or other disposition of property shall be the greater of:

(a) Fair market value on December 31, 1969, plus or minus all adjustments after December 31, 1969, and before the date of disposition under the rules of Part II of subchapter O of chapter 1, provided that the property was held by the private foundation on December 31, 1969, and continuously thereafter to the date of disposition, or

(b) Basis as determined under the rules of Part II of subchapter O of chapter 1, subject to the provisions of section 4940(c) (3) (B) (and without regard to section 362(c)).

(ii) For purposes of determining loss from the sale or other disposition of property, basis as determined in subdivision (i) (b) of this subparagraph shall apply.

(iii) The provisions of this subparagraph may be illustrated by the following examples:

*Example (1).* A cash basis private foundation purchased certain depreciable real property on December 1, 1969. On December 31, 1969, the fair market value of such property was \$100,000 and its basis was \$102,000. The property was sold on January 2, 1970, for \$105,000. Because fair market value on December 31, 1969, \$100,000, is less than basis as determined by Part II of subchapter O of chapter 1, \$102,000, a short-term gain of \$3,000 is recognized (i.e., sale price of \$105,000 less the greater of the two possible bases) for purposes of section 4942(f) (2) (B).

*Example (2).* Assume the facts as stated in Example (1) except that the sale price was \$95,000. Because the sale price was \$7,000 less than the basis for loss (\$102,000 as determined by the application of subdivision (ii) of this subparagraph), there is a capital loss of \$7,000 which may be deducted against short-term capital gains for 1970 (if any) in determining net short-term capital gain.

*Example (3).* A cash basis private foundation purchased unimproved land on December 1, 1969. On December 31, 1969, the fair market value of such property was \$110,000 and its basis was \$102,000. The property was sold on January 2, 1970, for 105,000. Fair market value on December 31, 1969, \$110,000, exceeds basis as determined by Part II of subchapter O of chapter 1, \$102,000, and will be used for purposes of determining gain. Because the basis for purposes of determining gain exceeds the sale price, there is no gain. Because the basis for purposes of determining loss (\$102,000) is less than sale price, there is no loss.

(5) *Treatment of certain distributions in redemption of stock.* For purposes of applying section 4942(f) and this paragraph, any distribution made to a private foundation by a disqualified person (as defined in section 4946(a)) in redemption of stock held by such private foundation in a business enterprise shall be treated as not essentially equivalent to a dividend under section 302(b) (1) if all of the following conditions are satisfied:

(i) Such redemption is of stock which was owned by a private foundation on May 26, 1969 (or which is acquired by a private foundation under the terms of a trust which was irrevocable on May 26,

1969, or under the terms of a will executed on or before such date, which are in effect on such date and at all times thereafter);

(ii) Such foundation is required to dispose of such property in order not to be liable for tax under section 4943 (relating to taxes on excess business holdings); and

(iii) Such foundation receives in return an amount which equals or exceeds the fair market value of such property at the time of such disposition or at the time a contract for such disposition was previously executed in a transaction which would not constitute a prohibited transaction (within the meaning of section 503(b) or the corresponding provisions of prior law). In the case of a disposition before January 1, 1975, section 4943 shall be applied without taking section 4943(c) (4) into account.

(e) *Certain transitional rules.* In the case of organizations organized before May 27, 1969, section 4942 shall—

(1) Not apply to an organization to the extent its income is required to be accumulated pursuant to the mandatory terms (as in effect on May 26, 1969, and at all times thereafter) of an instrument executed before May 27, 1969, with respect to the transfer of income producing property to such organization, except that section 4942 shall apply to such organization if the organization would have been denied exemption if section 504(a) had not been repealed, or would have had its deductions under section 642(c) limited if section 681(c) had not been repealed. In applying the preceding sentence, in addition to the limitations contained in section 504(a) or 681(c) before its repeal, section 504(a) (1) or 681(c) (1) shall be treated as not applying to an organization to the extent its income is required to be accumulated pursuant to the mandatory terms (as in effect on January 1, 1951, and at all times thereafter) of an instrument executed before January 1, 1951, with respect to the transfer of income producing property to such organization before such date, if such transfer was irrevocable on such date, and

(2) Not apply to an organization which is prohibited by its governing instrument or other instrument from distributing capital or corpus to the extent the requirements of section 4942 are inconsistent with such prohibition. With respect to taxable years beginning after December 31, 1971, subparagraphs (1) and (2) of this paragraph shall apply only during the pendency of any judicial proceeding by the private foundation which is necessary to reform, or to excuse such foundation from compliance with, its governing instrument or any other instrument (as in effect on May 26, 1969) in order to comply with the provisions of section 4942, and in the case of subparagraph (1) of this paragraph for all periods after the termination of such judicial proceeding during which the governing instrument or any other

instrument does not permit compliance with such provisions. For purposes of the preceding sentence, a judicial proceeding will be treated as pending only if the foundation is diligently pursuing its judicial remedies and there is no unreasonable delay in such proceeding for which the private foundation is responsible.

**§ 53.4942(a)-3 Qualifying distributions defined.**

(a) *In general.* (1) For purposes of section 4942 and §§ 53.4942(a)-1 through 53.4942(a)-3, the term "qualifying distribution" means—

(i) Any amount (including program-related investments, as defined in section 4944(c) and the regulations thereunder, and reasonable and necessary administrative expenses) paid to accomplish one or more purposes described in section 170(c)(2)(B), other than any contribution to an organization described in (a) or (b) of this subdivision:

(a) An organization controlled (directly or indirectly) by the contributing private foundation or one or more disqualified persons (as defined in section 4946) with respect to such foundation, except as provided in section 4942(g)(3) and paragraph (c) of this section. An organization is "controlled" by a foundation or one or more disqualified persons with respect to the foundation if any of such persons may, by aggregating their votes or positions of authority, require the donee organization to make an expenditure, or prevent the donee organization from making an expenditure. The "controlled" organization need not be a private foundation; it may be any type of exempt or nonexempt organization including a school, hospital, operating foundation, or social welfare organization.

(b) A private foundation which is not an operating foundation (as defined in section 4942(j)(3) and the regulations thereunder), except as provided in section 4942(g)(3) and paragraph (c) of this section.

For purposes of this subdivision, the payment of any tax imposed under chapter 42 shall not be treated as a qualifying distribution.

(ii) Any amount paid to acquire an asset used (or held for use) directly in carrying out one or more purposes described in section 170(c)(2)(B). See paragraph (c)(1)(i) of § 53.4942(a)-2 for the definition of "used (or held for use)".

(iii) Any amount set aside within the meaning of section 4942(g)(2) and paragraph (b) of this section.

For purposes of section 4942, the amount of a qualifying distribution of property is the fair market value of such property on the date such qualifying distribution is made. For purposes of this section, purposes described in section 170(c)(2)(B) shall be treated as including purposes described in section 170(c)(1), and the amount of an organization's qualifying distributions will be determined

solely on the cash receipts and disbursements method of accounting described in section 446(c)(1). For purposes of this subparagraph, if a private foundation borrows money in a particular taxable year to make expenditures for a charitable or other similar purpose and the loan is not repaid until a subsequent taxable year, then a qualifying distribution (if any) is treated as "paid" when each expenditure of the borrowed funds for such purpose is made, rather than when the loan is repaid, except as provided in subparagraph (2) of this paragraph.

(2) For purposes of subparagraph (1) of this paragraph, if a private foundation has borrowed money in a taxable year commencing before January 1, 1970, to make expenditures for a specific charitable, or other similar, purpose and the loan is not fully repaid until a subsequent taxable year, then any repayments of the loan principal after December 31, 1969, may be treated as qualifying distributions but in an amount not in excess of the portion of the total original loan principal which the foundation demonstrates was expended for charitable or other similar purposes before January 1, 1970.

For purposes of subparagraphs (1) and (2) of this paragraph, any payment of interest on such loan shall be treated as a deduction under section 4942(f)(1)(B) and (3) in the year in which it is paid.

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

*Example (1).* M, a private foundation which uses the calendar year as its taxable year, makes the following payments in 1970: (i) A payment of \$44,000 to five employees for conducting a foundation program of educational grants for research and study; (ii) \$20,000 for various items of overhead, 10 percent of which is attributable to the activities of the employees mentioned in payment (i) of this example and the other 90 percent of which is attributable to administrative expenses which were not paid to accomplish any section 170(c)(2)(B) purpose; and (iii) a \$100,000 general purpose grant paid to an educational institution described in section 170(b)(1)(A)(ii) which is not controlled by M or any disqualified persons with respect to M. Payments (i) and (ii) are qualifying distributions to the extent of \$46,000 (\$44,000 of salaries and 10 percent of the overhead, both of which are reasonable administrative expenses paid to accomplish section 170(c)(2)(B) purposes). Payment (iii) is also a qualifying distribution, since it is a contribution for section 170(c)(2)(B) purposes to an organization which is not described in subdivision (a) or (b) of subparagraph (1)(i) of this paragraph. The other 90 percent of payment (ii) may constitute deductions under section 4942(f)(1)(B) and (3) if they otherwise qualify under such section.

*Example (2).* On February 21, 1972, N, a private foundation which uses the calendar year as its taxable year, pays \$500,000 for real property on which it plans to build hospital facilities to be used for medical care and education. The real property produces no income and the hospital facilities will not be constructed until 1974 according to the set-aside plan submitted to and approved by the

Commissioner pursuant to paragraph (b) of this section. The purchase of the land is a qualifying distribution under either subdivision (ii) or subdivision (iii) of subparagraph (1) of this paragraph. If, however, the property were to produce rental income for more than 12 months before construction is begun, then such purchase would not constitute a qualifying distribution under subdivision (ii) of subparagraph (1) of this paragraph, but would be a qualifying distribution under subdivision (iii) of subparagraph (1) of this paragraph if the requirements of paragraph (b) of this section were satisfied.

*Example (3).* In 1971, X, a private foundation engaged in holding paintings and exhibiting them to the public, purchases an additional building to be used to exhibit the paintings. Such expenditure is a qualifying distribution under subparagraph (1)(ii) of this paragraph. In 1975, X sells the building. Under paragraph (d)(2)(iii)(b) of § 53.4942(a)-2, all of the proceeds of the sale (less direct costs of the sale) are included in the foundation's adjusted net income for 1975.

*Example (4).* In January 1969, M, a private foundation, borrowed \$10 million to give to N, a private college, for the construction of a science center. M borrowed the money from X, a commercial bank. M is to repay X at the rate of \$1.1 million per year (\$1 million principal and \$0.1 million interest) for 10 years, beginning in January 1970. M distributed \$5 million of the borrowed funds to N in February 1969 and the other \$5 million in March 1970. For purposes of this section, the first \$5 million of principal repayments (i.e., the principal repayments due in January of 1970, 1971, 1972, 1973, and 1974) constitute qualifying distributions. In addition, the payment of \$5 million to N in March 1970 constitutes a qualifying distribution. Each payment of interest (\$0.1 million annually) is treated as a deduction under section 4942(f)(1)(B) and (3) in the year in which it is made.

(b) *Certain set-asides.* (1) An amount set-aside for a specific project which is for one or more of the purposes described in section 170(c)(2)(B) may be treated as a qualifying distribution, but only if, at the time of the set-aside, the private foundation establishes to the satisfaction of the Commissioner or his delegate that—

(i) The amount will actually be paid for the specific project within 60 months from the date of the first set-aside, and

(ii) The project is one which can be better accomplished by such set-aside than by the immediate payment of funds.

A "specific project" (within the meaning of this subparagraph) includes, but is not limited to, situations where relatively long-term grants or expenditures must be made in order to assure the continuity of particular charitable projects or program-related investments as defined in section 4944(c), or where grants are made as part of a matching-grant program. Such term may include, for example, a plan to erect a building to house the direct charitable activity of the foundation (for example, a museum building in which paintings are to be hung), even though the exact location and architectural plans have not been finalized; a plan to purchase an additional group of paintings offered for sale only as a unit which requires an expenditure of more than 1 year's income; or a plan to fund a

specific research program which is of sufficient magnitude as to require an accumulation prior to commencement of the research, even though not all of the details of the program have been finalized. For good cause shown, the period for paying the amount set aside may be extended by the Commissioner or his delegate. For purposes of this subparagraph, the Commissioner or his delegate shall in all events either approve or disapprove a set-aside in writing.

(2) The approval by the Commissioner or his delegate must be applied for not later than the end of the taxable year in which the amount is actually set aside. An otherwise proper set-aside will not be a qualifying distribution under subparagraph (1) of this paragraph with respect to a specific taxable year if approval by the Commissioner of his delegate is not sought prior to the end of the taxable year in which the amount is actually set aside.

(3) To obtain approval by the Commissioner or his delegate for a set-aside, the foundation must write to Commissioner of Internal Revenue, T:MS:EO, 1111 Constitution Avenue NW., Washington, DC 20224, stating specifically—

(i) The nature and purposes of the specific project and the amount of the set-aside for which such approval is requested;

(ii) The amounts and approximate dates of any planned additions to the set-aside after its initial establishment;

(iii) The reasons why the project can be better accomplished by such set-aside than by the immediate payment of funds;

(iv) A detailed description of the project, including estimated costs, sources of any future funds expected to be used for completion of the project, and the location or locations (general or specific) of any physical facilities to be acquired or constructed as part of the project; and

(v) A statement by an appropriate foundation manager (as defined in section 4946(b)) that the amounts to be set aside will actually be paid for the specific project within a specified period of time which ends not more than 60 months after the date of the first set-aside; or a statement showing good cause why the period for paying the amount set aside should be extended (including a showing that the proposed project could not be divided into two or more projects covering periods of no more than 60 months each) and setting forth the extension of time requested.

(4) A set-aside approved by the Commissioner or his delegate shall be evidenced by the entry of a dollar amount on the books and records of a private foundation as a pledge or obligation to be paid at a future date or dates. Any amount which is set aside shall be taken into account for purposes of determining the foundation's minimum investment return under section 4942(e) (1) (A) (i) and paragraph (c) (1) of § 53.4942(a)-2, and any income attributable to such set-aside shall be taken into account in computing adjusted net income under sec-

tion 4942(f) and paragraph (d) of § 53.4942(a)-2.

(5) For purposes of section 4943, any interest in a business enterprise will be treated as disposed of by a private foundation at the time of the actual disposition of such interest, rather than at the time of a set-aside of such interest which is properly made pursuant to this paragraph.

(c) *Certain contributions to section 501(c) (3) organizations.* (1) For purposes of section 4942 and §§ 53.4942(a)-1 through 53.4942(a)-3, the term "qualifying distribution" includes (in the year in which it is paid) a contribution to a section 501(c) (3) organization described in section 4942(g) (1) (A) (i) or (ii) and paragraph (a) (1) (i) (a) or (b) of this section if—

(i) Not later than the close of the first taxable year after its taxable year in which such contribution is received, such donee organization makes a distribution equal to the full amount of such contribution and such distribution is a qualifying distribution (within the meaning of paragraph (a) of this section, without regard to this paragraph) which is treated under section 4942(h) and paragraph (d) of this section as a distribution out of corpus (or would be so treated if such section 501(c) (3) organization were a private foundation which is not an operating foundation), and

(ii) The private foundation making the contribution obtains adequate records or other sufficient evidence from such donee organization (such as a statement by an appropriate officer, director, or trustee of such donee organization) showing (a) that the qualifying distribution described in section 4942(g) (3) (A) and subdivision (i) of this subparagraph has been made by such organization, (b) the names and addresses of the recipients of such distribution and the amount received by each, and (c) that the distribution is treated as a distribution out of corpus under section 4942(h) and paragraph (d) of this section (or would be so treated if the donee organization were a private foundation which is not an operating foundation).

For purposes of this paragraph, all amounts contributed to a specific section 501(c) (3) organization described in section 4942(g) (1) (A) (i) or (ii) within any one taxable year of such organization shall be treated (with respect to the contributing private foundation) as one "contribution". If subdivision (i) or (ii) of this subparagraph is not satisfied with respect to any contribution within the meaning of this subparagraph, no portion of such contribution shall be treated as a qualifying distribution. In order for a donee organization to meet the distribution requirements of subdivision (i) of this subparagraph, it must, not later than the close of the first taxable year after its taxable year in which any contributions are received, distribute (within the meaning of this subparagraph) an amount equal in value to 100 percent of all contributions received in such year

and have no remaining undistributed income for such year. For purposes of this subparagraph, the term "contributions" means all contributions, whether of cash or property, and the fair market value of contributed property determined on the date of the contribution must be used in determining whether an amount equal in value to 100 percent of all contributions received has been distributed.

(2) The provisions of subparagraph (1) of this paragraph may be illustrated by the following examples:

*Example (1).* M, a private foundation, makes a contribution out of 1971 income to X, another private foundation which is not an operating foundation. The contribution is the only one received by X in its 1972 taxable year. In its 1973 taxable year, X makes a qualifying distribution to an art museum maintained by an operating foundation in an amount equal to the amount of the contribution received from M. X also distributes all of its undistributed income for 1972 and 1973 for other charitable purposes. Under the provisions of section 4942(h) and paragraph (d) of this section, such distribution to the museum is treated as a distribution out of corpus. Thus, M's contribution to X is a qualifying distribution out of M's 1971 income provided M obtains adequate records or other sufficient evidence from X showing the nature and amount of the distribution made by X, the identity of the recipient, and the fact that the distribution is treated as made out of corpus. If X's qualifying distributions during 1973 had been equal only to M's contribution to X and X's undistributed income for 1972, X could have made an election under section 4942(h) (2) and paragraph (d) (3) of this section to treat the amount distributed in excess of its 1972 undistributed income as a distribution out of corpus and in that manner satisfied the requirements of section 4942(g) (3) and this paragraph.

*Example (2).* Assume the facts stated in Example (1), except that X is a private college controlled by disqualified persons with respect to M and that the records which X furnishes to M show that the distribution would have been treated as made out of corpus if X were a private nonoperating foundation. The result is the same as in Example (1).

*Example (3).* Assume the facts stated in Example (1), except that the records obtained by M from X are not sufficient to show the amounts distributed or the identities of the recipients of the distributions. The contribution by M to X will be a qualifying distribution only if M can obtain other sufficient evidence (such as statements from officers or employees of X or from the recipients) showing the facts required by subparagraph (1) (ii) of this paragraph.

(3) A contribution by a private foundation to a recipient organization which the recipient uses to make payments to another organization (the secondary recipient) shall not be regarded as a contribution by the private foundation to the secondary recipient if the foundation does not earmark the use of the contribution for any named secondary recipient and does not retain power to cause the selection of the secondary recipient by the organization to which such foundation has made the contribution. For purposes of this subparagraph, a contribution described herein shall not be regarded as a contribution by the

foundation to the secondary recipient even though such foundation has reason to believe that certain organizations would derive benefits from such contribution so long as the original recipient organization exercises control, in fact, over the selection process and actually makes the selection completely independently of such foundation.

(4) For purposes of section 4942, a distribution to a private foundation which is not an operating foundation and which is not controlled (directly or indirectly) by the distributing foundation or one or more disqualified persons (as defined in section 4946 and the regulations thereunder) with respect to the distributing foundation will be treated as a distribution to an operating foundation if—

(i) Such distribution is pursuant to a written commitment which was binding on May 26, 1969, and at all times thereafter,

(ii) Such distribution is made for one or more of the purposes described in section 170(c) (2) (B), and

(iii) Such distribution is to be paid out to the recipient private foundation on or before December 31, 1974.

For purposes of this subparagraph, a written commitment will be considered to have been binding prior to May 27, 1969, only if the amount and nature of the distribution and the name of the recipient foundation were entered in the records of the distributing foundation, or were otherwise adequately evidenced, prior to May 27, 1969, or notice of the distribution was communicated in writing to such recipient prior to May 27, 1969.

(d) *Treatment of qualifying distributions.* (1) Except as provided in subparagraph (3) of this paragraph, any qualifying distribution made during a taxable year shall be treated as made—

(i) First out of the undistributed income (as defined in section 4942(c) and paragraph (a) of § 53.4942(a)-2) of the immediately preceding taxable year (if the private foundation was subject to the initial excise tax imposed by paragraph (a) (1) of § 53.4942(a)-1 for such preceding taxable year) to the extent thereof;

(ii) Second out of the undistributed income for the taxable year to the extent thereof; and

(iii) Then out of corpus.

(2) The provisions of subparagraph (1) of this paragraph may be illustrated by the following example:

*Example.* M, a private foundation which was created in 1968 and which uses the calendar year as its taxable year, has distributable amounts and qualifying distributions for 1970 through 1977 as follows:

	1970	1971	1972	1973
Distributable amount.....	\$100	\$100	\$100	\$100
Qualifying distribution.....	0	100	250	100
	1974	1975	1976	1977
Distributable amount.....	\$100	\$100	\$100	\$100
Qualifying distribution.....	100	100	100	-----

In 1971 the qualifying distribution of \$100 is treated under subparagraph (1) (i) of this paragraph as made out of the \$100 of undistributed income for 1970. The qualifying distribution of \$250 in 1972 is treated as made: (i) \$100 out of the undistributed income for 1971 under subparagraph (1) (i) of this paragraph; (ii) \$100 out of the undistributed income for 1972 under subparagraph (1) (ii) of this paragraph; and (iii) \$50 out of corpus in 1972 under subparagraph (1) (iii) of this paragraph. The qualifying distribution of \$100 in each of the years 1973 through 1976 is treated as made out of the undistributed income for each of those respective years under subparagraph (1) (ii) of this paragraph. See paragraph (e) of this section for adjustment of M's distributable amount for 1977 for purposes of §§ 53.4942(a)-1 through 53.4942(a)-3 (other than this paragraph).

(3) In the case of any qualifying distribution which (under subparagraph (1) of this paragraph) is not treated as made out of the undistributed income of the immediately preceding taxable year, the foundation may elect to treat any portion of such distribution as made out of the undistributed income of a designated prior taxable year or out of corpus. Such election must be made (by filing a statement with the Commissioner or his delegate) on or before the date prescribed for filing the foundation's return under section 6033 (determined with regard to any extension of time for filing) with respect to the taxable year in which such qualifying distribution is made, and the election is effective as of the date such statement is filed. The statement must contain a declaration by an appropriate foundation manager (within the meaning of section 4946(b) (1)) that the foundation is making an election under section 4942(h) (2) of the Code, and it must specify whether the distribution is made out of the undistributed income of a designated prior taxable year (or years) or is made out of corpus. Any election described in this subparagraph may be revoked in whole or in part (by filing a statement with the Commissioner or his delegate) on or before the date prescribed for filing the foundation's return under section 6033 (determined with regard to any extension of time for filing) with respect to the taxable year in question. Such statement must contain a declaration by an appropriate foundation manager (within the meaning of section 4946(b) (1)) that the foundation is revoking an election under section 4942(h) (2) in whole or in part, and it must specify the election or part thereof being revoked. For purposes of elections made under this subparagraph, see § 1.9100-1 relating to extensions of time for making certain elections.

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

*Example.* M, a private foundation which uses the calendar year as its taxable year, has undistributed income of \$300 for 1971, \$100 for 1972, and \$400 for 1973. On January 14, 1973, M makes its first qualifying distribution in 1973 when it sets aside (within the meaning of paragraph (b) of this section) \$700 for construction of a hospital. M notifies the Commissioner or his delegate in writing on March 20, 1973, that it is making

an election under section 4942(h) (2), and that its distribution of January 14 (to the extent it exceeds undistributed income for 1972) is to be applied first against undistributed income for 1971. On February 24, 1973, a notice of deficiency with respect to the tax imposed under paragraph (a) (1) of § 53.4942(a)-1 in regard to M's undistributed income for 1971 was mailed to M under section 6312 (a). Thus, under the given facts, an initial excise tax of \$45 (15 percent of \$300) is imposed under paragraph (a) (1) of § 53.4942(a)-1. Since M made the election described above, the \$300 of undistributed income for 1971 is treated as distributed during the correction period (as defined in paragraph (c) (3) of § 53.4942(a)-1), and therefore no additional tax will be imposed. In addition, \$300 (\$700 minus \$400) of the \$700 qualifying distribution is treated as made out of undistributed income for 1973.

(e) *Adjustment of distributable amount where distributions during prior years have exceeded income.* (1) If for the taxable years in the adjustment period (as defined in subparagraph (2) of this paragraph) for which an organization is a private foundation—

(i) The aggregate qualifying distributions treated (under section 4942(h) and paragraph (d) of this section) as made out of the undistributed income for such taxable years or as made out of corpus during such taxable years, exceed

(ii) The distributable amounts for such taxable years (determined without regard to this paragraph),

then, for purposes of §§ 53.4942(a)-1 through 53.4942(a)-3 (other than paragraph (d) of this section), the distributable amount for the taxable year shall be reduced by an amount equal to such excess. Amounts distributed by an organization in satisfaction of section 170(b) (1) (E) (ii) or 4942(g) (3) (A) are not to be taken into account under subdivision (i) of this subparagraph.

(2) For purposes of subparagraph (1) of this paragraph, the taxable years in the adjustment period are—

(i) With respect to any taxable year of a private foundation beginning before January 1, 1975, the taxable years beginning after December 31, 1969, and immediately preceding the taxable year in question, and

(ii) With respect to any taxable year of a private foundation beginning after December 31, 1974, the 5 taxable years immediately preceding the taxable year in question.

Thus, an excess (within the meaning of subparagraph (1) of this paragraph) for any 1 taxable year cannot be carried forward for more than 5 taxable years.

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

*Example (1).* Assume the facts as stated in the example in paragraph (d) (3) of this section. Thus, for the taxable year 1977, for purposes of subparagraph (1) (i) of this paragraph, the aggregate qualifying distributions with respect to the taxable years in the adjustment period (1972 through 1976) which are treated under section 4942(h) and paragraph (d) of this section as made out of undistributed income or corpus for such years are \$550, computed as follows:

Year	Qualifying distributions		
	Distributable amount	Out of undistributed income	Out of corpus
1972	\$100	\$100	\$50
1973	100	100	
1974	100	100	
1975	100	100	
1976	100	100	
Total	500	500	50

Since for the taxable years 1972 through 1976, the excess of the aggregate qualifying distributions over the aggregate distributable amounts is \$50, under the provisions of subparagraph (1) of this paragraph M's distributable amount (\$100) for 1977 is reduced to \$50, except for purposes of paragraph (d) of this section. If, however, M became a private foundation for the first time on January 1, 1974, then under the stated facts there would be no reduction in M's distributable amount for 1977 because, for M's taxable years 1974 through 1976, the aggregate of M's qualifying distributions treated as made out of undistributed income or corpus for such years would not exceed the distributable amounts for such years.

*Example (2).* Assume the facts as stated in Example (1), except that in 1975 M receives a contribution of \$200 from X, a private foundation which controls M (within the meaning of section 4942(g)(1)(A)(i)), and M distributes such contribution out of corpus in 1976 in satisfaction of section 4942(g)(3)(A). In this case, the result is the same as in Example (1), since such additional \$200 distribution out of corpus is excluded from the computation by section 4942(i)(1)(A) and subparagraph (1) of this paragraph.

*Example (3).* Assume the facts as stated in Example (1), except that in 1977 M has a qualifying distribution of \$75 and in 1978 M has a distributable amount of \$100. For purposes of section 4942(h) and paragraph (d) of this section, the \$100 distributable amount for 1977 is not reduced under section 4942(i). Thus, the \$75 qualifying distribution in 1977 is treated as made out of the \$100 of undistributed income for 1977, and no part of such qualifying distribution is treated as made out of corpus in 1977. For the taxable year 1978, the adjustment period is 1973 through 1977. The aggregate qualifying distributions in the adjustment period which are described in subparagraph (1)(i) of this paragraph are \$475, the sum of \$100 in each of the years 1973 through 1976, and \$75 in 1977. The distributable amounts in the adjustment period which are described in subparagraph (1)(ii) of this paragraph are \$500 (\$100 in each of the years 1973 through 1977), because the distributable amount of \$100 for 1977 is determined without regard to any reduction under section 4942(i). Thus, there is no excess (within the meaning of subparagraph (1) of this paragraph) with respect to the taxable year 1978.

[FR Doc.71-7831 Filed 6-7-71;8:45 am]

**DEPARTMENT OF THE INTERIOR**

Bureau of Indian Affairs

[ 25 CFR Part 131 ]

**PROTECTION OF ENVIRONMENT, CONSERVATION AND LAND USE REQUIREMENTS**

**Leasing and Permitting**

MAY 28, 1971.

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 section 131.11 of Part 131, Subchapter L, Chapter I, of Title 25 of the Code of Federal Regulations. This revision is proposed pursuant to the authority contained in sections 161, 463, and 465 of the Revised Statutes (5 U.S.C. 301; 25 U.S.C. 2 and 9).

The purpose of this revision is to extend the conservation and land use requirements of 25 CFR 131.11 to include provisions for the protection of the environment as mandatory requirements to be included in leases or permits granted or approved under Part 131.

Since this revision will impose environmental protection restrictions on the use of lands leased or permitted under Part 131, public comment and expression are deemed advisable. Accordingly, all persons who desire to submit comments, views, or arguments in connection with the proposed revision shall file the same with the Bureau of Indian Affairs, Washington, D.C. 20242, no later than 30 days after publication of this notice in the FEDERAL REGISTER.

Section 131.11 of Chapter I, Title 25 of the Code of Federal Regulations is revised to read as follows:

**§ 131.11 Protection of environment, conservation and land use requirements.**

Leases granted or approved under this part shall contain provisions to assure compliance with applicable air and water quality standards; to conserve and protect the environment; and to avoid, minimize or correct hazards to the public health and safety. The lessee will be required to provide adequate measures to avoid, control, minimize or correct erosion, contamination, or other abuses and damages to the environment within or without the leased premises that may result from or have been caused by operations conducted on the leased premises.

(a) Farming and grazing operations shall be conducted in accordance with recognized principles of good practice, conservation, and prudent management. Land use stipulations or conservation plans to define such use and the measures necessary for the conservation, protection and control of the environment shall be incorporated in and made a part of the lease.

(b) Commercial and industrial developments shall be constructed and operations conducted on the leased premises to control and minimize environmental pollution and abuses. Leases shall contain provisions for the lessee to submit, for advance approval, general and comprehensive plans of any proposed construction or developments for the use and conduct of operations as authorized for the leased premises prior to the lessee commencing any actual construction or development activities. Such plans, including architects' designs, construction specifications, machinery or equipment

installation and operation or specifications for other operations or developments, shall provide measures necessary to protect, control or abate environmental pollution or abuses and avoid, minimize, or correct hazards to the public health and safety. The duly authorized representative of the Secretary shall cause a technical examination of the plans to be made, and he may either approve or formulate requirements which the lessee must meet prior to approval.

(c) Other uses as authorized by leases issued under this part shall conform to the requirements and provisions formulated by the authorized representative of the Secretary for each such use as adapted to local conditions and the environmental factors which are in need of protection and control measures.

ERNEST STEVENS,  
Acting Commissioner.

[FR Doc.71-7924 Filed 6-7-71;8:46 am]

**DEPARTMENT OF AGRICULTURE**

Consumer and Marketing Service

[ 7 CFR Part 915 ]

**AVOCADOS GROWN IN SOUTH FLORIDA**

**Notice of Correction and Extension of Time for Filing Written Data, Views, or Arguments**

Pursuant to the provisions of the marketing agreement, as amended, and Order No. 915, as amended (7 CFR Part 915), a notice of proposed rule making was published in the May 29, 1971 issue of the FEDERAL REGISTER (36 F.R. 9871) regarding proposed size, quality, and maturity requirements for avocados grown in South Florida. Interested persons were afforded the opportunity to submit written data, views, or arguments not later than June 5, 1971.

The proposed handling requirements, designated as § 915.313 Avocado Regulation 13, as published, contains errors in Table 1 of paragraph (a)(2) with respect to the permissible shipment dates for certain weights or diameters of the Wagner, Schmidt, and Itzamma (incorrectly listed as Itsamma) varieties. Paragraph (a)(6) also contains errors as to shipment dates with respect to the Booth 8 variety. The applicable shipment dates and minimum weights or diameters for the aforesaid named varieties in Table 1 of paragraph (a)(2) and in paragraph (a)(6) are corrected to read as follows:

**§ 915.313 Avocado Regulation 13.**

- (a) Order. . . .
- (2) . . . .

TABLE I

Variety	Date	Minimum weight or diameter	Date	Minimum weight or diameter	Date	Minimum weight or diameter	Date
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Wagner	12-6-71	12 oz. 3 <sup>3</sup> / <sub>16</sub> in.	12-20-71	10 oz. 3 <sup>3</sup> / <sub>16</sub> in.	1-3-72		
Schmidt	1-17-72						
Itzamna	2-14-72						

(6) From October 25, 1971, through November 7, 1971, no handler shall handle any avocados of the Booth 8 variety unless the individual fruit in each lot of such avocados weighs at least 10 ounces or is at least 3<sup>3</sup>/<sub>16</sub> inches in diameter, and from November 8, 1971, through November 14, 1971, no handler shall handle any avocados of the Booth 8 variety unless the individual fruit in each lot of such avocados weighs at least 8 ounces or is at least 2<sup>3</sup>/<sub>16</sub> inches in diameter;

In view of the corrections specified herein, notice is hereby given that the time for submitting written data, views, or arguments on the proposal, as corrected, is extended through June 8, 1971.

Dated: June 4, 1971.

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

[FR Doc.71-8007 Filed 6-4-71; 12:35 pm]

## DEPARTMENT OF LABOR

Office of the Assistant Secretary for Labor-Management Relations

[ 29 CFR Part 202 ]

### PETITION FOR NATIONAL CONSULTATION RIGHTS

#### Notice of Proposed Rule Making

Notice is hereby given that the Assistant Secretary for Labor-Management Relations, pursuant to section 6 of Executive Order 11491, 34 F.R. 17605, is considering the adoption of rules governing petitions to the Assistant Secretary for national consultation rights. The proposed rules will implement the substantive criteria established by Part 2412 of Chapter XIV of Title 5 of the Code of Federal Regulations, 36 F.R. 2909, February 12, 1971, concerning national consultation rights.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed rule making to Mr. W. J. Usery, Jr., Assistant Secretary for Labor-Management Relations, Department of Labor, Washington, D.C. 20210, within 30 days after publication of this notice in the FEDERAL REGISTER. All written materials or suggestions submitted in response to this notice of proposed rule making will be available for public inspection at the U.S. Department of Labor, 14th Street

and Constitution Avenue, Washington, DC, during regular business hours.

Part 202 of Chapter II of Title 29 of the Code of Federal Regulations is hereby amended by adding the following § 202.2(d), reading as follows:

§ 202.2 Contents of petition; challenges to petition.

(d) *Petition for national consultation rights.* (1) A petition for national consultation rights shall contain the information required in subparagraph (4), (5), (7), and (8) of paragraph (a) of this section, and shall set forth:

(i) The name, address, and telephone number of the agency or primary national subdivision in which the petitioner seeks to obtain or retain national consultation rights, and the persons to contact and their titles, if known;

(ii) A showing that petitioner holds adequate exclusive recognition as required in 5 CFR § 2412.2;

(iii) A statement that such showing has been made to and rejected by the agency or primary national subdivision, together with a statement of the reasons for rejection, if any, offered by that agency or primary national subdivision.

(2) Notwithstanding any other regulations in this part, the following regulations govern petitions filed under this subsection:

(i) An original and four copies of a petition shall be filed, with the Area Administrator for the area wherein the agency headquarters or the headquarters of the agency's primary national subdivision are located, within 30 days following refusal by the agency or primary national subdivision to accord or continue to accord national consultational rights pursuant to a request under 5 CFR § 2412.2.

(ii) Within 15 days following the receipt of a copy of the petition, the agency or primary national subdivision shall file a response thereto with the Area Administrator raising any matter which is relevant to the petition.

(iii) The Area Administrator shall make such investigation as he deems necessary and report the essential facts and positions of the parties to the Regional Administrator. If the Regional Administrator determines after an investigation, that a labor organization does not qualify for national consultation rights or the petition is not otherwise actionable, he may request the party filing such a petition to withdraw the petition or in the absence of such withdrawal within a reasonable time, he may dismiss the petition subject to review by the Assistant Secretary pursuant to § 202.6(d). The

Regional Administrator, if appropriate, may cause a notice of hearing to issue to all interested parties where substantial factual issues exist warranting a hearing. Hearings shall be conducted by Hearing Examiners in accordance with §§ 203.10 through 203.24, with the exception of § 203.14 of this title. After considering the Hearing Examiner's report and recommendations, the record, and any exceptions filed thereto, the Assistant Secretary shall issue his decision.

(iv) An agency or primary national subdivision, shall provide notice of its intention to terminate national consultational rights not less than 15 days prior to the intended termination date. A labor organization after receiving such notice, but prior to the intended termination date, may duly file a petition under this section and thereby cause to be stayed further action by the agency or primary national subdivision pending ultimate review and decision by the Assistant Secretary. An agency or primary national subdivision may terminate national consultation rights if no petition has been filed during the notice period prescribed herein.

Signed at Washington, D.C., this 1st day of June 1971.

W. J. USERY, Jr.,  
Assistant Secretary of Labor  
for Labor-Management Relations.  
[FR Doc.71-7925 Filed 6-7-71; 8:46 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[ 21 CFR Part 191 ]

### HAZARDOUS SUBSTANCES BENZENE, TOLUENE, XYLENE, PETROLEUM DISTILLATES

#### Proposed Changes in First Aid Labeling Instructions for Certain Mixtures

Changes in hazardous substances labeling regulations may be necessary regarding first aid treatment after ingestion of mixtures of petroleum distillates and such acutely toxic substances as methyl alcohol, halogenated hydrocarbons, phenols, etc.

Section 191.7(b)(3), the regulation applicable to benzene, toluene, xylene, and petroleum distillates (such as kerosene, mineral seal oil, naphtha, gasoline, and mineral spirits), requires that these substances and mixtures containing specified amounts of them bear the first aid instructions "If swallowed do not induce vomiting. Call physician immediately." The first aid recommended, however, for the ingestion of methyl alcohol and other substances having a very high degree of systemic toxicity frequently includes instructions to induce vomiting.

Accordingly, the Commissioner of Food and Drugs proposes that § 191.7(b)(3) be amended as follows to eliminate such conflict by requiring that the first aid instructions on mixtures containing

petroleum distillates with very toxic substances recommend that vomiting be induced. In such circumstances, the hazard of an acute poisoning is greater than the hazard of chemical pneumonitis from vomiting the petroleum distillate.

Therefore, pursuant to provisions of the Federal Hazardous Substances Act (secs. 3(b), 10, 74 Stat. 374-75, as amended, 378; 15 U.S.C. 1262, 1269) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes that § 191.7(b) (3) (i) and (ii) be revised to read as follows:

§ 191.7 Products requiring special labeling under section 3(b) of the act.

(b) \* \* \*

(3) Benzene, toluene, xylene, and petroleum distillates. (i) Because inhalation of the vapors of products containing 5 percent or more, by weight, of benzene may cause blood dyscrasias, such product shall be labeled with the signal word "danger," the statement of hazard "Vapor harmful," and the word "poison" and the skull and crossbones symbol. If the product contains 10 percent or more, by weight, of benzene, it shall bear the additional statement of hazard "Harmful or fatal if swallowed" and the first aid instructions "If swallowed, do not induce vomiting. Call physician immediately," except that for mixtures of benzene with certain acutely toxic ingredients in such concentrations that the greater likelihood of injury results from the presence of the mixture in the digestive tract (as might be the case for certain mixtures with methyl alcohol, phenols, etc.), the first aid instructions shall recommend that vomiting be induced to reduce the hazard of an acute poisoning.

(ii) Because products containing 10 percent or more, by weight, of toluene, xylene, or any of the other substances listed in paragraph (a) (4) of this section may be aspirated into the lungs, with resulting chemical pneumonitis, pneumonia, and pulmonary edema, such products shall be labeled with the signal word "danger," the statement of hazard "Harmful or fatal if swallowed," and the statements "If swallowed, do not induce vomiting. Call physician immediately," except that when the product contains other acutely toxic substances in such concentrations that the greater likelihood of injury results from the presence of the mixture in the digestive tract (as might be the case for certain mixtures with methyl alcohol, phenols, etc.), the first aid instructions shall recommend that vomiting be induced to reduce the hazard of an acute poisoning.

Interested persons may, within 60 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accom-

panied by a memorandum or brief in support thereof.

Dated: May 27, 1971.

SAM D. FINE,  
Associate Commissioner  
for Compliance.

[FR Doc. 71-7916 Filed 6-7-71; 8:45 am]

DEPARTMENT OF  
TRANSPORTATION

Coast Guard

[ 33 CFR Part 117 ]

[ CGFR 71-45 ]

MYAKKA RIVER, FLA.

Drawbridge Operation Regulations

The Coast Guard is considering revising the regulations for the Seaboard Coast Line Railroad bridge across the Myakka River, near Charlotte Beach, to require that the draw open on signal from 7 a.m. to 7 p.m. and that the draw open on signal from 7 p.m. to 7 a.m. if at least 6 hours notice has been given. Present regulations require at least 36 hours notice at all times. This change is being considered because of the increased use of this waterway by navigation.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander, Seventh Coast Guard District, Room 1018, Federal Building, 51 Southwest First Avenue, Miami, FL 33130. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Seventh Coast Guard District.

The Commander, Seventh Coast Guard District, will forward any comments received before July 2, 1971, with his recommendations to the Chief, Office of Operations, who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 be amended by revising § 117.245(i) (3) to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

(i) \* \* \*  
(3) Myakka River, Seaboard Coast Line railroad bridge near Charlotte

Beach. From 7 a.m. to 7 p.m. the draw shall open on signal. From 7 p.m. to 7 a.m. the draw shall open on signal if at least 6 hours notice has been given.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g) (2), 89 Stat. 937; 33 U.S.C. 493, 49 U.S.C. 1655 (g) (2); 49 CFR 1.46(c) (5) (35 F.R. 4953), 33 CFR 1.05-1(c) (4) (35 F.R. 15922))

Dated: May 24, 1971.

R. E. HAMMOND,  
Rear Admiral, U.S. Coast Guard,  
Chief, Office of Operations.

[FR Doc. 71-7923 Filed 6-7-71; 8:46 am]

[ 33 CFR Part 117 ]

[ CGFR 71-44 ]

PASSAIC RIVER, N.J.

Drawbridge Operation Regulations

The Coast Guard is considering revising the regulations for the Erie Lackawanna railroad bridge across the Passaic River at Lyndhurst, N.J., to require at least 6 hours notice for the draw to open for the passage of vessels from 12 midnight to 8 a.m. The draw is presently required to open on signal at all times and would continue to open on signal from 8 a.m. to 12 midnight. This change is being considered because of the relatively few requests for openings during this period. There were 15 openings from 12 midnight to 8 a.m. from June 1, 1970 through January 31, 1971 or an average of approximately 2 per month.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander, Third Coast Guard District, Governors Island, New York, N.Y. 10004. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Third Coast Guard District.

The Commander, Third Coast Guard District, will forward any comments received before July 2, 1971, and his recommendations to the Chief, Office of Operations, who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 of 33 CFR be amended by adding § 117.225(f) (2-c) to read as follows:

§ 117.225 Navigable waters in the State of New Jersey; bridges where constant attendance of drawtenders not required.

(f) \* \* \*  
(2-c) Passaic River, Erie Lackawanna railroad bridge at Lyndhurst. From 8

a.m. to 12 midnight the draw shall open on signal. From 12 midnight to 8 a.m. the draw shall open on signal if at least 6 hours notice has been given.

\* \* \* \* \*  
(Sec. 5, 28 Stat. 362, as amended, sec. 6(g) (2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g) (2); 49 CFR 1.46(c) (5) (35 F.R. 4959), 33 CFR 1.05-1(c) (4) (35 F.R. 15922)

Dated: May 25, 1971.

R. E. HAMMOND,  
Rear Admiral, U.S. Coast Guard,  
Chief, Office of Operations.

[FR Doc. 71-7929 Filed 6-7-71; 8:46 am]

**Federal Highway Administration**  
**[ 49 CFR Part 393 ]**

[Docket No. MC-28; Notice No. 71-10]

**HAND AXES IN BUSES**

**Notice of Proposed Rulemaking**

The National Association of Motor Bus Owners has filed a petition for rulemaking, asking the Director to revoke § 393.96(b) of the Motor Carrier Safety Regulations. Section 393.96(b) requires every bus, except a bus engaged in drive-away-towaway operations or a bus having a seating capacity of less than nine

persons, to be equipped with a hand axe.

In support of its request, the petitioner asserts that there is no known instance in which availability of a hand axe has facilitated emergency escape from a bus and that push out windows and windshields are adequate means of permitting occupants to escape in the event of a fire or similar casualty. The petitioner also claims that the axe has created a hazard by becoming lodged under the brake pedal or because drivers have misused it to achieve a "fast idle" and to block the controls. Finally, the petitioner contends that the cost of purchasing and installing axes is an unnecessary expense because they are never used and frequently stolen.

Although the Bureau of Motor Carrier Safety has no data indicating that a hand axe has become lodged under a brake pedal or has been misused by a driver in a dangerous manner, it appears that the balance of the petition has sufficient validity to justify rulemaking proceedings. Therefore, the Director invites interested persons to submit written data, views, or arguments pertaining to the proposed revocation of the requirement that hand axes must be carried on certain buses. It is specifically requested that actual, documented cases be submitted to support any views relating to the safety need for hand axes or the hazards resulting from their avail-

ability. Persons commenting on the cost burden of the present rule are also invited to submit data to support their positions (for example, recent vendors' invoices for hand axes).

Comments should refer to the docket number and notice number set forth above. Three copies of each comment should be sent to the Director, Bureau of Motor Carrier Safety, Washington, D.C. 20591. All comments received before the close of business on August 2, 1971, will be considered before further action is taken on the proposal. All comments received will be available for examination in the docket in the office of the Chief, Regulations Division, Bureau of Motor Carrier Safety, 400 Seventh Street SW., Washington, DC.

This notice of proposed rulemaking is issued under the authority of section 204 of the Interstate Commerce Act, 49 U.S.C. 304, section 6 of the Department of Transportation Act, 49 U.S.C. 1655, the delegation of authority by the Secretary of the Interstate Commerce Act, 49 U.S.C. delegation of authority by the Federal Highway Administrator in 49 CFR 389.4

Issued on May 31, 1971.

ROBERT A. KAYE,  
Director,  
Bureau of Motor Carrier Safety.

[FR Doc. 71-7932 Filed 6-7-71; 8:46 am]

# Notices

## DEPARTMENT OF STATE

Agency for International Development

CONTROLLER, A.I.D., ET AL.

### Redelegation of Authority

Pursuant to the authority delegated to me by Delegation of Authority No. 36, as amended, from the Administrator, Agency for International Development, I hereby further amend the Redelegation of Authority, dated April 8, 1964 (29 F.R. 5354), as follows:

1. Paragraph 1(b) is amended to read as follows:

(b) Authority with respect to any individual implementing document, as described in sec. 201.01(m) of A.I.D. Regulation 1, to waive, withdraw or amend under § 201.85, application of any of the provisions of Subparts F, G, and H of A.I.D. Regulation 1.

2. Paragraph 1(c) is amended to read as follows:

(c) Authority to sign and issue approvals and determinations, or to take such other actions on behalf of the Administrator, as authorized or required by any of the provisions of A.I.D. Regulation 1 for which waiver authority is provided by paragraph 1(b) above;

3. Actions within the scope of this amendment to the Redelegation of Authority of April 8, 1964, as amended, heretofore taken by the Controller, or his designees, are hereby ratified and confirmed.

4. This amendment to the Redelegation of Authority of April 8, 1964 shall be effective immediately.

Dated: May 27, 1971.

LANE DWINELL,  
Assistant Administrator  
for Administration.

[FR Doc.71-7951 Filed 6-7-71;8:47 am]

[Delegation of Authority No. 36; Amdt. 3]

### ASSISTANT ADMINISTRATOR FOR ADMINISTRATION

#### Delegation of Authority

Pursuant to the authority delegated to me by Delegation of Authority No. 104 of November 3, 1961, as amended, from the Secretary of State (26 F.R. 10608) I hereby further amend Delegation of Authority No. 36, as follows:

1. Paragraph 2(b) is amended to read as follows:

(b) Authority, with respect to any individual implementing document, as described in sec. 201.01(m) of A.I.D. Regulation I, to waive, withdraw or amend under § 201.85, application of any of the provisions of Subparts F, G, and H of A.I.D. Regulation 1.

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

(c) Authority to sign and issue approvals and determinations, or to take such other actions on behalf of the Administrator, as authorized or required by any of the provisions of A.I.D. Regulation 1 for which waiver authority is provided by paragraph 2(b) above;

3. Actions within the scope of this amendment to Delegation of Authority No. 36 heretofore taken by the Assistant Administrator for Administration, or his designees, are hereby ratified and confirmed.

4. This amendment to Delegation of Authority No. 36 shall be effective immediately.

Date: May 27, 1971.

MAURICE J. WILLIAMS,  
Acting Administrator.

[FR Doc.71-7952 Filed 6-7-71;8:47 am]

## DEPARTMENT OF THE INTERIOR

Bonneville Power Administration

### CIVIL DEFENSE EMERGENCIES AND LAND ACTIVITIES

#### Redelegations of Authority

Redelegations of Authority published in the FEDERAL REGISTER on July 6, 1968 (33 F.R. 9784), and amended on September 13, 1968 (33 F.R. 12974), February 21, 1969 (34 F.R. 36), August 9, 1969 (34 F.R. 152), September 18, 1969 (34 F.R. 179), and May 1, 1971 (36 F.R. 85) are further amended by:

1. Section 10.2 is amended as follows:  
10.2 *Civil defense emergencies.*

(f) [Revoked.]

2. Section 10.15 is revised to read as follows:

10.15 *Land activities.*

a. The Chief, Branch of Land, may:

(7) Make determinations in accordance with titles II and III of the Act of January 2, 1971 (84 Stat. 1894), relating to the provision of relocation assistance and payment of moving and related expenses to persons displaced as the result of the acquisition of real property for programs undertaken by the Administration

Dated: May 26, 1971.

DONALD PAUL HODEL,  
Acting Administrator.

[FR Doc.71-7921 Filed 6-7-71;8:46 am]

## Bureau of Land Management NEVADA

### Notice of Filing of Plats of Survey and Order Providing for Opening of Lands

JUNE 1, 1971.

1. The Plats of Survey of lands described below will be officially filed at the Nevada State Office, Reno, Nev., effective 10 a.m. on July 6, 1971:

MOUNT DIABLO MERIDIANS, NEVADA

- a. T. 16 N., R. 27 E. (Group 447).  
b. T. 16 N., R. 31 E. (Group 447).

2. a. The surveyed area in T. 16 N., R. 27 E., aggregates 23,671.38 acres. The plat was accepted May 3, 1971. T. 16 N., R. 27 E., M.D.M., is situated on the northern slope of the Desert Mountain Range and includes portions of the Dead Camel Mountains. The center of the township is about 18 miles southwest of Fallon, Nev. Access is provided by numerous trail roads. The elevation varies from about 4,050 to 5,850 feet above sea level. Terrain is rolling to mountainous. Soil consists principally of sandy clay with basalt stone. There is no timber in the township, however, grass is abundant. No significant mineral deposits were noted. Drainage is largely through Sam Spring Wash, exiting the area near the center of the east boundary. Stock water wells are located in secs. 1, 17, and 24. There are several drift fences in the north and western portions of the area.

Currently principal users of the township are stockmen. There are no residents in the area.

b. The surveyed area in T. 16 N., R. 31 E., aggregates 17,717.25 acres; the resurveyed area aggregates 1,602.02 acres. The plat was accepted May 3, 1971. T. 16 N., R. 31 E., M.D.M. is situated on the Cocoon Mountains and Fourmile Flat, about 22 miles southeast of Fallon, Nev. Access is provided by U.S. Highway No. 50, passing near the north boundary of the township, and other numerous track and trail roads.

The elevation varies from 3,900 to 6,100 feet above sea level. Terrain ranges from level mud flat to mountains. Soil consists of sandy clay alluvium with gravel and basalt rock at the higher elevations and sand deposits at intervals around the base of the hills. The mud flat has sandy clay ranging to salt near the center.

There is no timber in the township. Vegetation is comprised of desert brush such as shadscale, greasewood and sagebrush with a variety of grasses.

No mineral deposits of significance were noted with the exception of the salt deposit in secs. 1, 2, 11, 12, 13, and 14.

A commercial salt mining operation is situated in sec. 12. There is a water well with windmill, a line cabin, and a stock holding corral located in sec. 36. There are no permanent residents in the township.

3. Subject to any existing valid rights and the requirements of applicable laws, the above-described lands are hereby opened to filing applications, selections, and location, except for applications under the Small Tract, Desert Land and Homestead Laws, in accordance with the following:

Applications and selections under the nonmineral public land laws may be presented to the office mentioned below, beginning on the date of the order. Such applications, selections, and offers will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs: Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of such claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph. All valid applications and selections under the nonmineral public land laws presented prior to 10 a.m., July 6, 1971, will be considered as simultaneously filed at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

4. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their applications, setting forth all facts relevant to their claims. Detailed rules and regulations governing applications, which may be filed pursuant to this notice can be found in title 43 of the Code of Federal Regulations. Inquiries concerning these lands shall be addressed to the Nevada State Office, Bureau of Land Management, 300 Booth Street, Reno, Nev. 89502.

ROLLA E. CHANDLER,  
*Chief,*

*Division of Technical Services.*

[FR Doc.71-7931 Filed 6-7-71;8:46 am]

## IDAHO

### Redelegation of Authority by Idaho State Director to Chief, Branch of Records and Data Management

JUNE 4, 1971.

Pursuant to the authority contained in section 1.1 of BLM Order No. 701 (29 F.R. No. 147, July 29, 1964) as amended, authority is hereby redelegated to the Chief, Branch of Records and Data Management to take action in all matters listed in sections 2.2(c), 2.3(c), and 2.4(a) (4) of the above-cited order. The authority delegated may not be redelegated.

The authority for the above action is deleted from the responsibilities of the Chief, Division and Technical Services as provided for in Amendment No. 12 of the above-cited order dated April 9, 1971.

The above delegation shall become effective June 9, 1971.

WM. L. MATHEWS,  
*State Director.*

Approved:

JOHN O. CROW,  
*Associate Director.*

[FR Doc.71-7971 Filed 6-7-71;8:47 am]

## Office of Hearings and Appeals

[Docket No. M 71-20]

### IMPERIAL COAL CO.

#### Petition for Modification of Interim Mandatory Safety Standard

In accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. section 861(c) (Supp. V, 1970)), notice is given that the Imperial Coal Co. has filed a petition to modify the application of section 303(b) of the Act to its Imperial Mine.

Section 303(b) provides in pertinent part as follows:

All active workings shall be ventilated by a current of air containing not less than 19.5 volume per centum of oxygen, not more than 0.5 volume per centum of carbon dioxide, and no harmful quantities of other noxious or poisonous gases; and the volume and velocity of the current of air shall be sufficient to dilute, render harmless, and to carry away, flammable, explosive, noxious, and harmful gases, and dust, and smoke and explosive fumes. \* \* \* The minimum quantity of air in any coal mine reaching each working face shall be three thousand cubic feet a minute. Within three months after the operative date of this title, the Secretary shall prescribe the minimum velocity and quantity of air reaching each working face of each coal mine in order to render harmless and carry away methane and other explosive gases and to reduce the level of respirable dust to the lowest attainable level. The authorized representative of the Secretary may require in any coal mine a greater quantity and velocity of air when he finds it necessary to protect the health or safety of miners. \* \* \*

The regulations of the Department provide that a minimum quantity of 3,000 cubic feet a minute of air shall reach each working face. 30 CFR 75.301-1, 35 F.R. 17899.

Petitioner proposes to modify section 303(b) by reducing the minimum quantity of air in its mine which reaches each working face at which coal is currently being extracted. It states that an alternative measure which would provide greater safety to the miners would be secured by moving blower fans at intervals of not greater than 160 feet instead of the presently allowable interval of 300 feet and that a norm of ventilation in the face areas of 1,800 cubic feet of air per minute (which may be increased proportionately in the event a greater face area is exposed) would secure the

optimum ventilation needed to insure the safety of the miners working in the face areas. Petitioner states that 3,000 cubic feet of air per minute in the restricted areas involved increases the potential hazard of respirable dust and combustible dust.

Parties interested in this petition should file their answers or comments within 30 days from the date of publication of this notice in the FEDERAL REGISTER with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 6432 Federal Building, Salt Lake City, Utah 84111. Copies of the petition are available for inspection at that address.

JAMES M. DAX,  
*Director,*  
*Office of Hearings and Appeals.*

MAY 26, 1971.

[FR Doc.71-7922 Filed 6-7-71;8:46 am]

[Docket No. M 71-23]

### IMPERIAL COAL CO.

#### Petition for Modification of Interim Mandatory Safety Standard

In accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. section 861(c) (Supp. V, 1970)), notice is given that the Imperial Coal Co. has filed a petition to modify the application of section 303(b) of the Act to its Eagle Mine.

Section 303(b) provides in pertinent part as follows:

All active workings shall be ventilated by a current of air containing not less than 19.5 volume per centum of oxygen, not more than 0.5 volume per centum of carbon dioxide, and no harmful quantities of other noxious or poisonous gases; and the volume and velocity of the current of air shall be sufficient to dilute, render harmless, and to carry away, flammable, explosive, noxious, and harmful gases, and dust, and smoke and explosive fumes. \* \* \* The minimum quantity of air in any coal mine reaching each working face shall be three thousand cubic feet a minute. Within three months after the operative date of this title, the Secretary shall prescribe the minimum velocity and quantity of air reaching each working face of each coal mine in order to render harmless and carry away methane and other explosive gases and to reduce the level of respirable dust to the lowest attainable level. The authorized representative of the Secretary may require in any coal mine a greater quantity and velocity of air when he finds it necessary to protect the health or safety of miners. \* \* \*

The regulations of the Department provide that a minimum quantity of 3,000 cubic feet a minute of air shall reach each working face. 30 CFR 75.301-1, 35 F.R. 17899.

Petitioner proposes to modify section 303(b) by reducing the minimum quantity of air in its mine which reaches each working face at which coal is currently being extracted. It states that an alternative measure which would provide greater safety to the miners would be secured by moving blower fans at intervals of not greater than 160 feet instead

of the presently allowable interval of 300 feet and that a norm of ventilation in the face areas of 1,800 cubic feet of air per minute (which may be increased proportionately in the event a greater face area is exposed) would secure the optimum ventilation needed to insure the safety of the miners working in the face areas. Petitioner states that 3,000 cubic feet of air per minute in the restricted areas involved increases the potential hazard of respirable dust and combustible dust.

Parties interested in this petition should file their answers or comments within 30 days from the date of publication of this notice in the FEDERAL REGISTER with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 6432 Federal Building, Salt Lake City, Utah 84111. Copies of the petition are available for inspection at that address.

JAMES M. DAY,  
Director,  
Office of Hearings and Appeals.

[FR Doc. 71-7923 Filed 6-7-71; 8:46 am]

## DEPARTMENT OF COMMERCE

Bureau of International Commerce

[Case No. 420-(CP-16)]

MILES METAL CORP.

### Order Imposing Civil Penalties and Placing Respondent on Probation for Export Control Violations

The Director, Investigations Division, Office of Export Control, Bureau of International Commerce, issued a charging letter on January 29, 1971, charging the above respondent with violations of the Export Control Act of 1949<sup>1</sup> and regulations thereunder. It was alleged, in substance, that respondent had violated the regulations that had been promulgated under the short supply provision of the Act (Section 2(1)(A) of the Export Control Act of 1949<sup>2</sup>) in that under 37 export licenses it exported quantities of copper in excess of those that were authorized. The charging letter informed the respondent that administrative proceedings were instituted against it for the purpose of obtaining an order imposing sanctions as provided in section 388.1 of the Export Control Regulations. The respondent was duly served with the charging letter and appeared in the proceedings through an attorney.

<sup>1</sup> This Act has been succeeded by the Export Administration Act of 1969, Public Law 91-184, approved Dec. 30, 1969, 50 U.S.C. App. sec. 2401-2413. Section 13(b) of the new Act provides, "All outstanding delegations, rules, regulations, orders, licenses, or other forms of administrative action under the Export Control Act of 1949 \* \* \* shall, until amended or revoked, remain in full force and effect, the same as if promulgated under this Act."

<sup>2</sup> Section 3(2)(A) of the Export Administration Act of 1969, contains a similar provision.

Pursuant to section 388.10 of the Export Control Regulations, with agreement of the Director, Investigations Division, there was submitted to the Compliance Commissioner a consent proposal for the issuance of an order imposing a civil penalty and placing respondent on probation for 3 months. In said consent proposal the respondent admitted for the purpose of this compliance proceeding only the charges set forth in the charging letter of January 29, 1971. The respondent waived: (1) All rights to oral hearing before the Compliance Commissioner; (2) all rights of administrative appeal from and judicial review of said order; (3) all rights to request refund of any civil penalty imposed pursuant to the consent proposal. It consented to an order imposing the civil penalties hereinafter set forth and probation for 3 months.

The Compliance Commissioner has considered the facts in the case and the respondent's proposal. He has approved the proposal and recommended that it be accepted. The undersigned, having considered the Compliance Commissioner's report and the consent proposal, hereby makes the following:

#### FINDINGS OF FACT

1. The respondent Miles Metal Corp., with a place of business in New York City, is one of the leading primary and scrap metal dealers in the United States. It is engaged both in domestic and export trade. Among other things it is engaged in the procurement and exportation of copper-bearing scrap materials.

2. The Export Control Act of 1949 authorized the issuance of regulations to curtail the exportation of materials when necessary to protect the domestic economy from the excessive drain of scarce materials and to reduce the inflationary impact of abnormal foreign demand. Pursuant to said authorization the Department of Commerce in November 1965 curtailed the exportation from the United States of copper, including copper scrap. The Office of Export Control issued regulations whereby validated export licenses were required for the exportation of copper or copper-bearing materials. On September 3, 1970 the Department of Commerce announced that unrestricted export licensing would be resumed immediately on all copper commodities previously restricted for short supply reasons. The regulations were thereafter revised accordingly.

3. Under the short supply regulations semiannual quantitative quotas were established on a national basis limiting the amount of copper or copper-bearing material that may be exported. The bulk of the export quota was allocated to firms that participated in such exports during a representative base period. The respondent was a firm that had a history of participation and it was allocated a share of the quota.

4. While the copper short supply regulations above referred to were in effect, the respondent applied for and received numerous validated export licenses to export copper. Among such licenses were

37 that were issued between January 21, 1969, and August 3, 1970. Each license permitted the exportation of a specific quantity of copper in copper-bearing material. Under each of said licenses the respondent was limited as to the quantity of copper that could be exported thereunder. The aggregate amount of copper that respondent was permitted to export under the 37 licenses was 999,697 pounds.

5. Notwithstanding the limitation on the quantity of copper that could be exported under said licenses, the respondent, with respect to each license, exported a greater quantity of copper (in copper-bearing material) than that which was authorized. The aggregate amount of copper exported in excess of that which was authorized was approximately 1,333,710 pounds. The exportations were made by respondent without notifying the Office of Export Control that copper in excess of the quantities authorized were being exported.

6. In effecting exportations under the above-mentioned licenses the respondent filed Shipper's Export Declarations in which it falsely declared the copper content of the copper-bearing material that was being exported. In each instance the copper content declared was less than the actual amount being exported.

7. By such false declarations on Shipper's Export Declarations the respondent caused false statements to be placed on the 37 export licenses, in that the quantities of copper shown to be shipped were less than the quantities actually shipped. The respondent failed to notify the Office of Export Control of these shipments in excess of the amounts authorized.

Based on the foregoing, I have concluded that the respondent violated the following sections of the Export Control Regulations: (a) 387.6, in that on 37 occasions it knowingly exported quantities of copper in copper-bearing material in excess of quantities authorized in each of said 37 licenses; (b) 387.5(c), in that with respect to each of said 37 licenses it failed to notify the Office of Export Control of a change of material fact previously represented in applications for said export licenses; (c) 387.5(a), in that it caused false representations to be made, and material facts concealed from the U.S. Department of Commerce in connection with the preparation of Shipper's Export Declarations in effecting exportations from the United States under the above mentioned export licenses.

On consideration of the record in the case, I hereby accept the consent proposal: *And it is hereby ordered:*

I. Pursuant to §388.1(a)(4) of the Export Control Regulations, civil penalties totalling thirty-seven thousand dollars (\$37,000) are hereby imposed on respondent, being the maximum penalty of \$1,000 on each of 37 violations relating to a particular validated export license.

II. In addition to the foregoing civil penalties the respondent is denied all privileges of participating, directly or indirectly, in any manner or capacity, in the exportation of any commodity or

technical data from the United States to any foreign destination, including Canada, for a period of 3 months. The effectiveness of this denial action is withheld and the respondent is placed on probation for this 3-month period during which time it is permitted all U.S. export privileges as though this order had not been issued, unless action is taken pursuant to paragraph III herein. At the expiration of said period this order without further action shall terminate. The condition of probation is that respondent shall not violate the Export Administration Act of 1969 or regulations thereunder.

III. Upon a finding by the Director, Office of Export Control or such other official as may be exercising the duties now exercised by him, that the respondent has knowingly failed to comply with the requirements and conditions of this order or with any of the conditions of probation, said official without notice, when national security or foreign policy considerations are involved, or with notice if such considerations are not involved, by supplemental order may revoke the probation of said respondent, revoke all outstanding validated export licenses to which said respondent may be a party and deny to said respondent all export privileges for the remaining period of the order. Such supplemental order shall contain the provisions of §§ 387.10 and 388.1(b) of the Export Control Regulations. Such supplemental order shall not preclude the Bureau of International Commerce from taking such further action for any violation as it shall deem warranted. On the entry of a supplemental order revoking respondent's probation without notice it may file objections and request that such order be set aside and may request an oral hearing as provided in section 388.16 of the Export Control Regulations; but pending such further proceedings the order of revocation shall remain in effect.

Dated: June 2, 1971.

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

[FR Doc.71-8010 Filed 6-7-71;8:49 am]

#### Maritime Administration

#### STATE STREET BANK AND TRUST COMPANY

#### Notice of Approval of Applicant as Trustee

Notice is hereby given that State Street Bank and Trust Company, a Massachusetts corporation, with offices at 225 Franklin Street, Boston, Massachusetts, has been approved as a trustee pursuant to Public Law 89-346 and 46 CFR 221.21-221.30.

Dated: May 28, 1971.

BURT KYLE,  
Chief, Office of Ship Operations.

[FR Doc.71-7913 Filed 6-7-71;8:45 am]

#### National Oceanic and Atmospheric Administration

[Docket No. G-504]

#### IRVIN JOHN PIERRE

#### Notice of Loan Application

JUNE 2, 1971.

Irvin John Pierre, 2006 32d Street, Gulfport, MS 39501, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used wood vessel, about 59-feet in length, to engage in the fishery for shrimp.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above-entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Interior Building, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

JAMES F. MURDOCK,  
Chief,

Division of Financial Assistance.

[FR Doc.71-7937 Filed 6-7-71;8:46 am]

[Docket No. G-505]

#### NATHAN J. ROGERS

#### Notice of Loan Application

JUNE 2, 1971.

Nathan J. Rogers, Post Office Box 143, Lafitte, LA 70067, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a new wood vessel, about 55-foot in length, to engage in the fishery for shrimp.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Interior Building, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evi-

dence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

JAMES F. MURDOCK,  
Chief,

Division of Financial Assistance.

[FR Doc.71-7938 Filed 6-7-71;8:46 am]

[Docket No. G-499]

#### LARRY JOSEPH DUPRE

#### Notice of Loan Application

JUNE 2, 1971.

Larry Joseph Dupre, Box 223-B, Fanguy Street, Chauvin, LA 70344, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used wood vessel, about 52 feet in length, to engage in the fishery for shrimp.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above-entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Interior Building, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

JAMES F. MURDOCK,  
Chief,

Division of Financial Assistance.

[FR Doc.71-7954 Filed 6-7-71;8:47 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

#### GAF CORP.

#### Notice of Filing of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b) (5), 72 Stat. 1786; 21 U.S.C. 348(b) (5)), notice is given that a petition (FAP 1B2681) has been filed by GAF Corp., 140 West 51st Street, New York, N.Y. 10020, proposing that § 121.2520 *Adhesives* and § 121.2571 *Components of paper and paperboard in contact with dry food* (21 CFR 121.2520, 121.2571) be

amended to provide for the safe use, as components of food packaging adhesives and paper and paperboard for dry food contact, of  $\alpha$ -(*p*-nonylphenyl)- $\omega$ -hydroxypoly(oxyethylene) sulfate, ammonium salt; the nonyl group is a propylene trimer isomer and the poly (oxyethylene) content averages 9 or 30 moles.

Dated: June 1, 1971.

VIRGIL O. WODICKA,  
Director, Bureau of Foods.

[FR Doc.71-7917 Filed 6-7-71;8:45 am]

[DESI 9363]

**COMBINATION STEROID-SYMPATHOMIMETIC NASAL SPRAY**  
Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drug:

Vasocort Spraypak containing hydrocortisone, hydroxyamphetamine hydrobromide, and phenylephrine hydrochloride; Smith, Kline and French Laboratories, 1500 Spring Garden Street, Philadelphia, Pennsylvania 19101 (NDA 9-363).

The drug is regarded as a new drug (21 U.S.C. 321(p)). The effectiveness classification and marketing status are described below.

**A. Effectiveness classification.** The Food and Drug Administration has considered the Academy's report, as well as other available evidence, and concludes that this combination drug is possibly effective for its recommended use in the local treatment of acute, chronic, and allergic rhinitis.

**B. Marketing status.** Marketing of such drug with labeling which recommends or suggests its use for indications for which it has been classified as possibly effective may be continued for 6 months as described in paragraphs (d), (e), and (f) of the notice Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study, published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273).

A copy of the Academy's report has been furnished to the firm referred to above. Any other interested person may obtain a copy by request to the Food and Drug Administration, Press Relations Office (CE-200), 200 C Street SW., Washington, D.C. 20204.

Communications forwarded in response to this announcement should be identified with the reference number DESI 9363, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20852:

Supplements (Identify with NDA number):  
Office of Scientific Evaluation (BD-100),  
Bureau of Drugs.

Original new drug applications: Office of Scientific Evaluation (BD-100), Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs.

This notice is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1030-53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: May 7, 1971.

SAM D. FINE,  
Associate Commissioner  
for Compliance.

[FR Doc.71-7918 Filed 6-7-71;8:45 am]

[DESI 6700]

**CERTAIN OPHTHALMIC PREPARATIONS CONTAINING ANTIBIOTICS**  
Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drugs:

1. Terramycin Ophthalmic Solution, containing oxytetracycline hydrochloride; Chas. Pfizer & Co., Inc., 235 East 42d Street, New York, New York 10017 (NDA 61-014).

2. Myciguent Ophthalmic Ointment, containing neomycin sulfate; The Upjohn Co., 7171 Portage Road, Kalamazoo, Michigan 49002 (NDA 60-478).

3. Neomycin Sulfate Ophthalmic Ointment; Eli Lilly & Co., Post Office Box 618, Indianapolis, Indiana 46206 (NDA 61-079).

4. Neomycin Ophthalmic Ointment, containing neomycin sulfate; Day-Baldwin, Inc., 1460 Chestnut Avenue, Hillside, New Jersey 07205 (NDA 60-074).

5. Polymyxin B Sulfate Ophthalmic Ointment; Chas. Pfizer & Co., Inc. (NDA 8-219).

6. Bacitracin Ophthalmic Ointment; Eli Lilly & Co. (NDA 60-687).

7. Bacitracin Ophthalmic Ointment; Day-Baldwin, Inc. (NDA 61-076).

8. Bacitracin Ophthalmic Ointment; Chas. Pfizer & Co., Inc. (NDA 60-726).

9. Bacitracin Ophthalmic Ointment; Kasco Laboratories, Inc., Cantlague Road, Post Office Box 73, Hicksville, New York 11802 (NDA 61-212).

10. Bacitracin Ophthalmic Ointment; Biocraft Laboratories, Inc., 92 Route 46, East Paterson, New Jersey (NDA 60-303).

11. Bacitracin Ophthalmic Ointment; Bryant Pharmaceutical Corp., 70 MacQuesten Parkway South, Mount Vernon, New York (NDA 60-330).

12. Ilotycin Ophthalmic Ointment, containing erythromycin; Eli Lilly and Co. (NDA 50-368).

13. Chloromycetin Ophthalmic Ointment, containing chloramphenicol; Parke, Davis & Co., Joseph Campau at the River, Detroit, Michigan 48232 (NDA 50-156).

14. Chloromycetin Ophthalmic, containing chloramphenicol; Parke, Davis & Co. (NDA 61-220).

The Food and Drug Administration concludes that when administered topically to the eye, the above listed drugs are effective for the indications described in the labeling conditions in this announcement.

Preparations containing these drugs are subject to the antibiotic procedures pursuant to section 507 of the Federal Food, Drug, and Cosmetic Act. Within 60 days following publication of this announcement in the FEDERAL REGISTER, drugs in the dosage forms described above, for which certification is requested or drugs subject to exemption and shipped within the jurisdiction of the Act, should contain labeling information in accord with this reevaluation of the drugs published in this announcement.

The above-named firms and any other holders of applications approved for a drug of the kinds described above are requested to submit within 60 days following publication of this announcement in the FEDERAL REGISTER, amendments to their antibiotic applications to provide for revised labeling. Such labeling should comply with all requirements of the Act and regulations, bear adequate information for safe and effective use of the drug, and be in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970. The "Indications" section of the labeling should be as follows:

**INDICATIONS**

Oxytetracycline Hydrochloride; Neomycin Sulfate; Polymyxin B Sulfate; Bacitracin; Erythromycin; and Chloramphenicol Ophthalmic Preparations.

For the treatment of superficial ocular infections involving the conjunctiva and/or cornea caused by (insert drug name) susceptible organisms.

Except for the indications described in the "Indications" sections above, these drugs are regarded as possibly effective for their other labeled indications. Batches of the drugs which bear labeling with these indications and are otherwise in accord with the labeling conditions herein will continue to be exempt from or accepted for certification by the Food and Drug Administration for a period of 6 months from the publication date of this announcement to allow any applicant to obtain and submit data to provide substantial evidence of effectiveness of the drugs for use in these conditions for which they have been evaluated as possibly effective.

To be acceptable for consideration in support of the effectiveness of a drug, any such data must be previously unsubmitted, well-organized, and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in section 130.12(a)(5) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies

obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for the approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

At the end of the 6-month period, any such data will be evaluated to determine whether there is substantial evidence of effectiveness for such uses. After that evaluation, the conclusions concerning the drug will be published in the FEDERAL REGISTER. If no studies have been undertaken, or if the studies do not provide substantial evidence of effectiveness, such drug will not be eligible for release, certification, or exemption with labeling bearing such indications.

A copy of the Academy's report has been furnished to each firm referred to above. Any other interested person may obtain a copy by request to the appropriate office named below.

Communications forwarded in response to this announcement should be identified with the reference number DESI 6700, directed to the attention of the following appropriate office, and addressed (unless otherwise specified) to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland, 20852:

Amendments (Identify with NDA number—if known): Division of Anti-Infective Drug Products (BD-140), Office of Scientific Evaluation, Bureau of Drugs.

Requests for NAS-NRC report: Press Relations Office (CE-200), Food and Drug Administration, 200 C Street SW., Washington, D.C. 20204.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs.

This notice is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 507, 52 Stat. 1050-51, as amended; 59 Stat. 463, as amended; 21 U.S.C. 352, 357) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: May 7, 1971.

SAM D. FINE,  
Associate Commissioner  
for Compliance.

[FR Doc.71-7919 Filed 6-7-71;8:45 am]

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D-71-102]

### GENERAL COUNSEL AND DEPUTY GENERAL COUNSEL

#### Delegation of Authority

**SECTION A. Authority delegated.** The General Counsel and the Deputy General Counsel each is authorized to exercise the following power and authority of the Secretary of Housing and Urban Development (Secretary):

1. To interpret the authority of the Secretary and to determine whether the

issuance of any rule, regulation, statement of policy, or standard promulgated by the Department is consistent with that power and authority. However, nothing contained in this subsection shall affect the validity of any rule, regulation, statement of policy or standard once it has been promulgated by the Department.

2. To direct all litigation affecting the Department and to sign, acknowledge and verify on behalf of and in the name of the Secretary all declarations, bills, petitions, pleas, complaints, answers, and other pleadings in any court proceeding brought in the name of or against the Secretary or in which he is named as a party.

3. To direct the referral of cases and other matters to the Attorney General for appropriate legal action and to transmit information and material pertaining to the violation of law or Department rules and regulations. There are excepted from this authority, however, those referrals and transmittals which the Assistant Secretary for Administration is authorized to make under the delegation of authority to him published concurrently herewith.

4. To accept on behalf of the Secretary service of all summons, subpoenas, and other judicial, administrative, or legislative processes directed to the Secretary or to an employee of the Department in an official capacity.

5. To approve the legality of the issuance of subpoenas or interrogatories, the compelling of attendance by witnesses, and the granting of petitions to revoke or modify subpoenas or interrogatories, pertaining to investigations or other proceedings for which responsibility is vested in the Secretary.

6. To consider, ascertain, adjust, determine, compromise, and settle claims pursuant to the Federal Tort Claims Act, 28 U.S.C. 2671, and the regulations contained in 28 CFR Part 14 and 24 CFR Part 17.

**Sec. B. Authority to redelegate.** The General Counsel is authorized to redelegate to employees of the Department any of the power and authority delegated under section A of this document.

**Sec. C. Additional authority delegated.** In addition to the authority delegated in section A:

1. The General Counsel, the Deputy General Counsel, and the Deputy General Counsel for Legal Affairs each is authorized to exercise the power and authority of the Secretary of Housing and Urban Development to approve the production or disclosure of HUD materials or information by HUD employees, or former employees in response to subpoenas or demands of courts or other authorities, pursuant to regulations of the Department set forth in 24 CFR Part 15, Subpart H.

2. Within the respective territorial jurisdiction of the region to which he is assigned, each regional counsel is also authorized to exercise the power and authority described in paragraph 1 of this section.

3. This section supersedes the Delegation of Authority effective August 27, 1970 (35 F.R. 14756, Aug. 28, 1970).

**Sec. D. Authority to designate.** The General Counsel is authorized to:

1. Designate one or more employees to serve as Acting General Counsel during the absence of the General Counsel.

2. Designate one or more employees to serve in an acting capacity during the absence of an appointee to a position in the Office of General Counsel or during a vacancy in such a position. (Sec. 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535 (d).)

**Effective date.** This delegation of authority shall be effective as of June 8, 1971.

GEORGE ROMNEY,  
Secretary of Housing and  
Urban Development.

[FR Doc.71-7943 Filed 6-7-71;8:47 am]

[Docket No. D-71-103]

### ASSISTANT AND DEPUTY ASSISTANT SECRETARIES FOR ADMINISTRATION

#### Delegation of Authority

**SECTION A. Authority delegated.** The Assistant Secretary for Administration and the Deputy Assistant Secretary for Administration each is authorized to exercise the following power and authority of the Secretary of Housing and Urban Development:

1. To direct referral to the Department of Justice of cases or matters that involve:

a. Criminal fraud, or possible criminal fraud, under the National Housing Act (12 U.S.C. 1701).

b. A violation or possible violation of:  
i. The Contract Work Hours Standards Act (40 U.S.C. 327).

ii. The Davis-Bacon Act (40 U.S.C. 276a).

c. Evidence of the crimes, or any attempt to commit the crimes, of:

i. Bribery.  
ii. Embezzlement.  
iii. Impersonation of a Government officer.

iv. Solicitation by a Federal employee.  
v. Theft.

d. Any of the following:

i. Conflict of interest.  
ii. Discriminatory employment acts or practices.  
iii. False advertising.  
iv. Kickbacks.  
v. Misconduct of HUD personnel.  
vi. Violation of construction standards or practices.  
vii. Violation of contract or corporate charter provisions.

viii. Any other criminal or civil fraud matters not set forth in section B or otherwise specified herein.

2. To direct referral to the Civil Service Commission of cases or matters that involve a violation or possible violation of the Hatch Act (5 U.S.C. 1181).

3. To transmit to the Department of Justice (including the Federal Bureau

of Investigation) and to the Civil Service Commission information and material pertaining to violations or alleged violations described in preceding paragraphs 1 and 2, respectively.

4. To direct referral to the Secret Service Division, Department of the Treasury, of cases or matters that involve the alleged forgery of U.S. Treasury checks or alleged irregularities with regard to imprest funds; and to transmit to the Secret Service Division information and material pertaining to the alleged forgeries or irregularities.

5. To receive directly from:

a. The Department of Justice, any reports concerning action taken on matters referred by HUD in accordance with preceding paragraph 1.

b. The Civil Service Commission, any reports concerning action on matters referred by HUD in accordance with preceding paragraph 2.

c. The Secret Service Division, Department of the Treasury, any reports concerning action taken on matters referred by HUD in accordance with preceding paragraph 4.

6. To receive directly from the Federal Bureau of Investigation:

a. Information requested by HUD with respect to a person who is presently, or is prospectively to be, employed or retained in an advisory capacity.

b. Information with respect to the arrest of an employee.

c. Information with respect to subversive organizations.

d. Reports of investigation.

e. Information and materials relating to any other investigative or audit matters not specified in this paragraph, in following paragraph 7, or in section 8.

7. To maintain direct exchange of information and materials with the Organized Crime and Racketeering Section, Criminal Division, Department of Justice.

*Sec. B. Authority excepted.* Notwithstanding any delegation of authority in section A, neither the Assistant Secretary for Administration nor the Deputy Assistant Secretary for Administration is authorized to refer directly any case or matter or to transmit information or material to the Department of Justice, with respect to violations or possible violations of:

1. The Civil Rights Act of 1968 (42 U.S.C. 3601).

2. The Interstate Land Sales Full Disclosure Act (15 U.S.C. 1701).

*Sec. C. Authority to redelegate.* The Assistant Secretary for Administration is authorized to redelegate to employees of the Department any of the power and authority delegated under section A of this document. (Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d).)

*Effective date.* This delegation of authority shall be effective as of June 8, 1971.

GEORGE ROMNEY,  
Secretary of Housing and  
Urban Development.

[FR Doc.71-7944 Filed 6-7-71;8:47 am]

## ATOMIC ENERGY COMMISSION

[Dockets Nos. 50-317, 50-318]

### BALTIMORE GAS AND ELECTRIC CO. Notice of Receipt of Application for Facility Operating License

Please take notice that Baltimore Gas and Electric Co., Gas and Electric Building, Charles Center, Baltimore, Md. 21203, pursuant to section 104(b) of the Atomic Energy Act of 1954, as amended, has filed an amendment, dated January 4, 1971, to its application for licenses to construct and operate two nuclear power reactors at its site in Calvert County, Md., transmitting a final safety analysis report in support of the application.

The proposed nuclear powerplant will consist of two identical pressurized water nuclear reactors, designated by the applicant as the Calvert Cliffs Nuclear Plant, Units 1 and 2, each of which is designed for initial operation at approximately 2,570 thermal megawatts with a gross electrical output of approximately 880 megawatts.

A copy of the amendment along with the final safety analysis report is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Calvert County Library, Prince Frederick, Md. 20678, Mrs. Marie Barrett, Librarian.

Dated at Bethesda, Md., this 21st day of May 1971.

For the Atomic Energy Commission.

PETER A. MORRIS,

Director,

Division of Reactor Licensing.

[FR Doc.71-7936 Filed 6-7-71;8:46 am]

### PROPOSED RADIOACTIVE WASTE REPOSITORY, LYONS, KANSAS

#### Notice of Availability of the General Manager's Final Environmental Statement

Notice is hereby given that a document entitled "Final Environmental Statement—Proposed Radioactive Waste Repository, Lyons, Kans.," issued pursuant to the Atomic Energy Commission's implementation of section 102(2)(C) of the National Environmental Policy Act of 1969 is being placed in the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20545, and in the Commission's Oak Ridge Operations Office, Post Office Box E, Oak Ridge, TN 37830; the San Francisco Operations Office, 2111 Bancroft Way, Berkeley, CA 94704; the Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439; and the New York Operations Office, 376 Hudson Street, New York, NY 10014. This statement covers the waste repository which the Commission proposes to establish at Lyons, Kans. Also on file are the comments received from Federal and State agencies on the draft statement of which notice of availability was published in the

FEDERAL REGISTER, Volume 35, No. 248, dated December 23, 1970, and the AEC's response to those comments.

The Environmental Statement, the comments on the draft statement and AEC's response to those comments will be furnished upon request addressed to the Assistant General Manager for Operations, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Dated at Washington, D.C., this 4th day of June 1971.

For the Atomic Energy Commission.

W. B. McCool,

Secretary of the Commission.

[FR Doc.71-8048 Filed 6-7-71;9:27 am]

## CIVIL AERONAUTICS BOARD

[Docket No. 22162]

### COUNTY OF SULLIVAN, STATE OF NEW YORK AND SULLIVAN COUNTY AIRPORT COMMISSION

#### Notice of Postponement of Prehearing Conference

Prehearing Conference in this matter is now scheduled to be held on June 4, 1971. The county of Sullivan, N.Y., and the Sullivan County Airport Commission (Sullivan County Parties) have requested that the prehearing conference be postponed until it has exhausted its administrative remedies to obtain a decision on whether or not Allegheny Airlines, Inc. (Allegheny), should be made a party to this proceeding. In connection with their request, the Sullivan County Parties allege that they will shortly file a request that the examiner allow an appeal to the Board of his denial of the Sullivan County Parties' motion to make Allegheny a party to this proceeding. The Sullivan County Parties argue that such an appeal is necessary to prevent substantial detriment to the public interest and undue prejudice to them.

They also assert that they are authorized to state that all the other parties to the proceeding have no objection to the postponement as requested.

Upon consideration of the motion, the prehearing conference is postponed until further notice. The parties are directed to file any request for consent to appeal on or before June 10, 1971.

Dated at Washington, D.C., June 2, 1971.

[SEAL] JOSEPH L. FITZMAURICE,  
Hearing Examiner.

[FR Doc.71-7969 Filed 6-7-71;8:48 am]

## FEDERAL HOME LOAN BANK BOARD

### AFFILIATED CAPITAL CORP.

#### Notice of Receipt of Application for Approval of Acquisition of Control of Southwest Savings Association

JUNE 3, 1971.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application

## NOTICES

from Affiliated Capital Corp., Houston, Tex., a multiple savings and loan holding company, for approval of acquisition of control of the Southwest Savings Association, Dallas, Tex., an insured institution, under the provisions of section 408(e) of the National Housing Act, as amended (12 U.S.C. 1730a(e)), and section 584.4 of the Regulations for Savings and Loan Holding Companies, said acquisition to be effected by the purchase for cash by the applicant of the shares of said Southwest Savings Association. Comments on the proposed acquisition should be submitted to the Director, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, within 30 days of the date of this notice appears in the FEDERAL REGISTER.

[SEAL] JACK CARTER,  
Secretary,  
Federal Home Loan Bank Board.  
[FR Doc.71-7939 Filed 6-7-71;8:46 am]

## FEDERAL MARITIME COMMISSION

### CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

#### Notice of Certificates Revoked

Notice is hereby given that the following vessel owners and/or operators have requested voluntary revocation of their Certificates of Financial Responsibility (Oil Pollution) which had been issued by the Federal Maritime Commission, covering the below-indicated vessels, pursuant to Part 542 of Title 46 CFR and section 11(p)(1) of the Federal Water Pollution Control Act, as amended.

Certificate No.	Owner/operator and vessels
04232	B & B Marine Construction Corp.: Bollinger No. 4. Bollinger No. 5.
05298	Erich Drescher: Ede Wilstorf.
01210	A/S Brovigtank: Dea Brovig.
01287	Knorr & Burchard N.L.: Rancher.
01305	Royal Mail Lines: Picardy. Andes.
01421	Bibby Line Ltd.: Gloucestershire.
01422	The Booth Steamship Co., Ltd.: Veras.
01305	Royal Mail Lines: Togokust. Komnklyke Nedlloyd N.V.
01498	Vessel Operators, Inc.: Albert M.
01548	Hain-Nourse Ltd.: Trecarrell. Nurjehan.
01640	Corredores Delmar Armadora S.A.: Elin Naftikos.
01730	Rosador Compania Naviera S.A. Panama: Ioanna.
01995	Rederi AB Disa. Disa.
01996	Rederi AB Poseidon: Ingrid Brodin.

Certificate No.	Owner/operator and vessels	Certificate No.	Owner/operator and vessels
01998	Rederiaktiebolaget Gylfe, Helsingborg, Sweden: Ivan Gorthon.	04007	Egon Oldendorff: Gebo Oldendorff.
01996	Rederi AB Poseidon: Margareta Brodin.	01330	Poling Transportation Corp. Velutina.
02139	Picklands Mather & Co.: Willis B. Boyer. Henry G. Dalton.	04357	Koninklijke Nedlloyd N.V.: Kloosterkerk.
02197	Matson Navigation Co.: Hawaiian Refiner. Hawaiian Farmer. Hawaiian Merchant.	04367	Theresa Limitada S.A.: Eliza.
02219	Bartran, Inc.: Bartran No. 20. Seaford.	04289	Dixie Carriers Inc.: Chemical-101. Chemical-102. DXE 2303. DXE 2304. Offshore 2401. BBT 978. J & S 4000. ETT 101. ETT 102. ETT 103. ETT 104. ETT 105. ETT 106. ETT 107. ETT 108. ETT 109. ETT 110. ETT 111.
02286	China Union Lines, Ltd.: Union Trader.	04437	LeBeouf Bros. Towing Co., Inc.: ZMS-B-20-1.
02358	A/S Ganger Rolf-A/S Bonheur-A/S Borgaden Norske Middelhavslinje A/S-A/S Jelolinjen: Bollsta.	04485	Fujiuramaru Gyogyo Kabushiki Kaisha: Fujiura Maru No. 27.
02439	Bereederungs-Alliance Flensburg G.m.b.H.: Gisela Vennmann.	04595	Antillean Carriers N.V.: Antillian Brewer.
02448	Rederiaktiebolaget Nordstjernen: Hood River Valley. Guayana.	05594	The Valley Line Co.: MV 225.
02476	Independent Towing Co.: Oak. Eim.	04767	Texaco, Inc.: Stono. Jasper. West Carroll. Benton. Texaco North Carolina.
02498	Chevron Oil Co.: No. 18.	04770	Texaco Panama Inc.: Texaco Caribbean.
02504	Ponente Shipping Co., Ltd.: San Gus.	05019	Happy Union Maritime Ltd.: Krotan Unity.
02715	Allied Towing Corp.: Michael. ACS-1. SC 90.	05103	Imperial Oil Ltd.: Imperial Cornwall.
02870	Isthmian Lines, Inc.: Steel Worker.	05158	Kyrising Corp.: Kyrka.
01863	Trident Tankers Ltd.: Megna.	05513	Ulrich Harms G.m.b.H. & Co.: Magnus V. Magnus IV.
05029	Inland Oil & Transport Co.: IOT-3.	05679	South Texas Shipping & Towing Inc.: LRL-111. T-700.
02877	Nippon Yusen Kabushiki Kaisha: New York Maru.		By the Commission.
02889	Showa Kaiun K.K.: Enyo Maru. Nikkel Maru.		FRANCIS C. HURNEY, Secretary.
02929	SoFumar - Societe D'Armenement Fluvial & Maritime: Port St. Louis.		[FR Doc.71-7953 Filed 6-7-71;8:47 am]
03067	Vickers Towing Co., Inc.: J. E. Vickers.		<b>FEDERAL POWER COMMISSION</b>
03137	The Cunard Steam-Ship Co., Ltd.: Mawana. Macharda. Parthia.		[Docket No. CS71-501 etc.]
03219	Whitwill, Cole & Co., Ltd.: Baltic Ore.		<b>A. E. COLLINSWORTH ET AL.</b>
03441	Japan Line, K.K.: Yowa Maru.		Notice of Applications for "Small Producer" Certificates <sup>1</sup>
03473	Nippon Shoun K.K.: Tohnanmaruno 8.		MAY 28, 1971.
03478	Nitta Kisen K.K.: Chiyo-kawa Maru.		Take notice that each of the applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a "small producer"
03501	Osaka Shosen Mitsui Senpaku K.K.: La Plata Maru.		<sup>1</sup> This notice does not provide for consolidation for hearing of the several matters covered herein.
03506	Taiheyo Kaiun K.K.: Howa Maru.		
03530	Yashima Kaiun K.K.: Oshima Maru.		
03611	Villain & Fassio e Compagnia Internazionale di Navigazione Societa Riunite di Navigazione S.p.A.: Novia.		
03634	James B. Hines Corp.: Hines 6. Hines 7.		
03729	Halliburton Co.: Welex-803.		
03878	Ingram Barge Co., a division of Ingram Corp.: Eau Claire. Wisconsin.		

certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before June 21, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,  
*Acting Secretary.*

Docket No.	Date filed	Name of applicant
CS71-501	4-23-71	A. E. Collinsworth, Post Office Box 507, Minden, LA. 71055.
CS71-502	4-23-71	Dora C. Atkinson, Post Office Box 507, Minden, LA. 71055.
CS71-503	4-26-71	Stewart Oil & Gas, Inc., Post Office Box 778, Minden, LA. 71055.
CS71-504	4-26-71	Edmond L. Stewart Trust, Post Office Box 778, Minden, LA. 71055.
CS71-505	4-29-71	E. A. Courtney, Agent, Post Office Box 1519, Hammond, LA. 70401.
CS71-506	4-29-71	Gas Gathering Corp., Post Office Box 519, Hammond, LA. 70401.
CS71-507	4-29-71	Mrs. Doris Gamble DeJean, 113 Baratara Dr., Chickasaw, AL. 36611.
CS71-508	4-29-71	Welori Lumber Co., Post Office Box 1547, Shreveport, LA. 71102.
CS71-509	4-29-71	L. E. Jones Production Co. et al., 201-203 Security National Bank Bldg., Duncan, Okla. 73533.
CS71-510	4-29-71	Newmont Oil Co., 1135 Capital National Bank Bldg., Houston, Tex. 77002.
CS71-511	4-29-71	Equipment, Inc., 2309 Pinhook Rd., Lafayette, LA. 70501.
CS71-512	4-29-71	Success Oil & Gas Co., Inc., Post Office Box 4528, Monroe, LA. 71201.

Docket No.	Date filed	Name of applicant	Docket No.	Date filed	Name of applicant
CS71-513	4-29-71	Trident Oil & Gas Corp., Post Office Box 4913, Monroe, LA. 71201.	CS71-549	4-30-71	Cree Oil, Inc., Post Office Box 1821, Pampa, TX 79665.
CS71-514	4-29-71	Mitchell & Lewis, 1500 Milham Bldg., San Antonio, Tex. 78203.	CS71-550	4-29-71	Circo Exploration, Inc., Ninth Floor, Pioneer Bldg., Lake Charles, LA. 70601.
CS71-515	4-29-71	Petro-Search, Inc., et al., 825 Petroleum Club Bldg., Denver, Colo. 80202.	CS71-551	4-29-71	Mrs. Marie Watkins Smith, Post Office Box 752, Minden, LA. 71055.
CS71-516	4-29-71	Bel Oil Corp., Post Office Box 1447, Lake Charles, LA. 70601.	CS71-552	4-30-71	Vaughn Petroleum, Inc., Agent (Operator) et al., 1407 Main St., Fourth Floor, Dallas, TX 75202.
CS71-517	4-29-71	W. Carlton Weaver, 1101 Driscoll Bldg., Corpus Christi, Tex. 78401.	CS71-553	4-30-71	J. A. Dykes, 1500 Beck Bldg., Shreveport, La. 71101.
CS71-518	4-29-71	3&1 Trusts (Burns), Suite 630, Guaranty National Tower, Corpus Christi, Tex. 78401.	CS71-554	4-30-71	J. T. Palmer, 1500 Beck Bldg., Shreveport, La. 71101.
CS71-519	4-29-71	Burns Trust No. 2, Suite 630, Guaranty National Tower, Corpus Christi, Tex. 78401.	CS71-555	4-29-71	Texas International Petroleum Corp. et al., Post Office Box 4520, Centenary Station, Shreveport, LA. 71104.
CS71-520	4-29-71	Jack J. Grynberg and Celeste C. Grynberg, 760 Petroleum Club Bldg., Denver, Colo. 80202.	CS71-556	4-29-71	Robert W. Ellington, Jr., Operator, Post Office Box 1153, Monroe, LA. 71201.
CS71-521	4-29-71	Trident Corp., Drawer G, Woodsboro, Tex. 76833.	CS71-557	4-8-71	Alma Oringderf, Box 906, Perryton, TX 79070.
CS71-522	4-29-71	Reading and Bates, Inc. (Operator), et al., c/o Robert Earl McCormack, Attorney, Suite 102, 2963 East 31st St., Tulsa, OK 74133.	CS71-558	4-30-71	Little Nick Oil Co., 515 Petroleum Bldg., Chickasha, Okla. 73015.
CS71-523	4-30-71	C. H. Lyons, Sr., 1500 Beck Bldg., Shreveport, La. 71101.	CS71-559	4-30-71	E. L. Hilliard, 1500 Beck Bldg., Shreveport, La. 71101.
CS71-524	4-29-71	Emmett J. Rahm, 714 Alamo National Bldg., San Antonio, Tex. 78203.	CS71-560	4-30-71	Martha Dolan Hilliard, 1500 Beck Bldg., Shreveport, La. 71101.
CS71-525	4-29-71	D. J. Harrison, 665 San Jacinto Bldg., Houston, Tex. 77002.	CS71-561	4-30-71	J. F. Harrell, 1500 Beck Bldg., Shreveport, La. 71101.
CS71-526	4-29-71	George O. Shettle, Post Office Box 663, Midland, TX 79701.	CS71-562	4-30-71	G. F. Abendroth, 1500 Beck Bldg., Shreveport, La. 71101.
CS71-527	4-29-71	A. W. Pogue, Post Office Box 988, Midland, TX 79701.	CS71-563	4-30-71	Cree Production Co. (successor to Cree Drilling Co., Inc.), Box 1821, Pampa, TX 79665.
CS71-528	4-29-71	Sam Wolfson, 3200 Republic National Bank Tower, Dallas, Tex. 75201.	CS71-564	4-30-71	Lavo Oil & Gas Co., 301 South Market St., Wichita, KS 67202.
CS71-529	4-29-71	R. T. Wolfson, 3200 Republic National Bank Tower, Dallas, Tex. 75201.	CS71-565	4-30-71	San Salvador Development Co., Inc., 2021 Chamber of Commerce Bldg., Houston, TX 77002.
CS71-530	4-29-71	Crystal Oil Co., Post Office Box 1101, Shreveport, LA. 71102.	CS71-566	4-30-71	D. J. Stone, Operator et al., 217 Fern & County Village, Palo Alto, CA 94301.
CS71-531	4-29-71	Louis H. Weltman et al., 1011 Wilco Bldg., Corpus Christi, TX 78401.	CS71-567	4-30-71	Arthur N. Rupp, 8360 Santa Monica Blvd., Los Angeles, CA 90069.
CS71-532	4-29-71	Richard R. Homer, 440 North St. Francis, Wichita, KS 67202.	CS71-568	4-30-71	Marion Corp., 114 East Fifth St., Tulsa, OK 74103.
CS71-533	4-29-71	Dennell Drilling Co., 1925 Mercantile Dallas Bldg., Dallas, Tex. 75201.	CS71-569	1-30-71	Edwin L. Minges, Post Office Box 2163, Tuscaloosa, AL 35401.
CS71-534	4-29-71	State Exploration Co. and State Petroleum, 643 South Olive St., Los Angeles, CA 90014.	CS71-570	4-30-71	Egerton S. Harris, Jr., 50 High Forrest, Tuscaloosa, AL 35401.
CS71-535	4-30-71	Midstates Gas Transportation Co., Rural Delivery No. 4, West Union, W. Va. 26150.	CS71-571	4-30-71	Southeastern Public Service Co., 1417 Chamber of Commerce Bldg., Houston, Tex. 77002.
CS71-536	4-30-71	Jack E. Webber et al., Rural Delivery No. 4, West Union, W. Va. 26150.	CS71-572	4-30-71	Arzyle Royalty Co., 1407 Main St., Fourth Floor, Dallas, TX 75202.
CS71-537	4-30-71	Dan R. Wager & Diane Oil Co., Post Office Box 7568, Southside Station, Tulsa, OK 74105.	CS71-573	4-30-71	Petroleum Exploration & Development Funds, Inc., 744 Hickory St., Abilene, TX 76901.
CS71-538	4-30-71	Consolidated Production Corp., Hightower Bldg., Oklahoma City, Okla. 73102.	CS71-574	4-30-71	Petroleum Exploration & Operating Corp., 744 Hickory St., Abilene, TX 76901.
CS71-539	4-30-71	Dyna Ray Oil & Gas Co., Inc., 4101 East Louisiana Ave., Denver, CO 80222.	CS71-575	4-30-71	Grady H. Vaughn, Jr., Trust, No. 1 & No. 2, Jack C. Vaughn Trust, No. 1 & No. 2, 1407 Main St., Fourth Floor, Dallas, TX 75202.
CS71-540	4-30-71	W. C. Blanks, 522 Building of the Southwest, Midland, Tex. 79701.	CS71-576	4-30-71	Alfred D. McKelvey, 1922 Union Center Bldg., Wichita, Kans. 67202.
CS71-541	4-30-71	Wichita Resources Ltd., 723 Western United Life Bldg., Midland, TX. 79701.	CS71-577	4-30-71	G. B. Cree Estate, Box 1821, Pampa, TX 79665.
CS71-542	4-30-71	W. C. McBride, Inc., 25 North Brentwood Blvd., St. Louis, MO. 63103.	CS71-578	4-30-71	Frank Spooner, 411 Ouachita National Bank Bldg., Monroe, La. 71201.
CS71-543	4-30-71	Aquiline Oil Corp., Houston Natural Gas Bldg., Suite 1019, 1209 Travis, Houston, TX 77002.	CS71-579	4-30-71	Harry Spooner, Jr., 411 Ouachita National Bank Bldg., Monroe, La. 71201.
CS71-544	4-30-71	C. Henry Reath, 2301 First National Bank Bldg., Denver, CO. 80202.	CS71-580	4-30-71	Charles N. Prothro, d.b.a. Perkins-Prothro Co. (Operator) et al., Post Office Box 2939, Wichita Falls, TX 76707.
CS71-545	4-30-71	Dan J. Harrison, Jr., Harrison Oil Co., 665 San Jacinto Bldg., Houston, TX. 77002.	CS71-581	4-30-71	Adelaide Isaac, 832 Elmwood, Shreveport, LA. 71104.
CS71-546	4-30-71	Nicholas J. Schaefer, 4322 South Fairway Dr., Shreveport, LA. 71109.	CS71-582	4-30-71	Cecilia Schaefer, 832 Elmwood, Shreveport, LA. 71104.
CS71-547	4-30-71	S. G. Myers, Jr. et al., 1009 Lane Bldg., Shreveport, LA. 71101.	CS71-583	4-30-71	Mrs. Leonia Isaac Borne, 171 Atlantic Ave., Shreveport, LA. 71103.
CS71-548	4-30-71	J. Gregory Merrion, Box 497, Farmington, NM 87401.	CS71-584	4-30-71	Harold L. Woods et al., Post Office Box 4766, Monroe, LA. 71201.
			CS71-585	4-30-71	Harold L. Woods et al., Post Office Box 4766, Monroe, LA. 71201.

Docket No.	Date filed	Name of applicant
CS71-586...	4-30-71	Crescent Drilling Co., Inc., Post Office Box 4706, Monroe, LA 71201.
CS71-587...	4-30-71	MPS Production Co., 700 First City National Bank Bldg., Houston, Tex. 77002.
CS71-588...	4-30-71	Genevra Harris Bradley, Individually and as Independent Executrix of Estate of Palmer Bradley, 2500 Humble Bldg., Houston, Tex. 77002.
CS71-589...	4-30-71	Ruby Green Seay, Individually and as Independent Executrix of Estate of Bryant P. Seay, 2500 Humble Bldg., Houston, Tex. 77002.
CS71-590...	4-30-71	Reading & Bates Production Co. (Operator) et al., c/o Robert Earl McCormack, Attorney, Suite 102, 5363 East 31st St., Tulsa, OK 74135.
CS71-591...	4-30-71	Ken Blackford (Operator) et al., 2102 30th St., Lubbock, TX 79411.
CS71-592...	4-30-71	William Graham Oil Co., 302 G-M Bldg., 211 North Broadway, Wichita, KS 67202.
CS71-593...	4-30-71	G. Henry Vaughn, III Trust and G. William Vaughn Trust, 1407 Main St., Fourth Floor, Dallas, TX 75202.
CS71-594...	4-30-71	Stream, Inc., C-111 Petroleum Center, San Antonio, Tex. 78209.
CS71-595...	4-30-71	Nor-Mac-Burns Co., Post Office Box 286, Torrance, CA 90507.
CS71-596...	4-30-71	T. L. James & Co., Inc., Post Office Box 1305, Ruston, LA 71270.
CS71-597...	4-30-71	N. H. Wheelless Oil Co., Post Office Box 1746, Shreveport, LA 71102.

Docket No.	Date filed	Name of applicant
CS71-598...	4-30-71	Clark Canadian Exploration Co., Post Office Drawer 5008, Wichita Falls, TX 76307.
CS71-599...	4-30-71	Cedar Log Co., 1100 Hamilton Bldg., Wichita Falls, TX 76301.

[FR Doc.71-7867 Filed 6-7-71;8:45 am]

[Docket No. RI71-983, etc.]

**GULF OIL CORP. ET AL.**

**Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund<sup>1</sup>**

MAY 28, 1971.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission

<sup>1</sup> Does not consolidate for hearing or dispose of the several matters herein.

enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the respondent or by the Commission. Each respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

[SEAL]

**KENNETH F. PLUMB,**  
*Acting Secretary.*

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf*		Rate in effect subject to refund in dockets Nos.
									Rate in effect	Proposed increased rate	
RI71-983...	Gulf Oil Corp.-----	418	1 to 8	Transwestern Pipeline Co. (Kermit and South Kermit Fields, Winkler County, Tex., Permian Basin).	\$2,920	4-30-71	-----	5-30-71	18.08	21.0	RI70-1692
RI71-1054	do-----	418	9	do-----	6,320	4-30-71	-----	11-1-71	21.0	27.32	RI71-983 <sup>1a</sup>
RI71-1055	Atlantic Richfield Co.	442	6	Transwestern Pipeline Co. (Kermit Field, Winkler County, Tex., Permian Basin).	8,910	5-6-71	-----	7-7-71	18.0788	21.0	RI69-787.
RI69-457	do-----	608	4 5	Natural Gas Pipeline Co. of America (Lochridge Area, Ward County, Tex., Permian Basin).	16,560	5-6-71	-----	7-7-71	16.8828	17.6650	
RI71-1056	Perry R. Bass-----	21	1	Northern Natural Gas Co. (Gomez Field, Pecos County, Tex., Permian Basin).	248,400	4-29-71	-----	6-30-71	22.0	20.50	
	do-----	22	1	do-----	162,000	4-29-71	-----	6-30-71	22.0	20.50	
	do-----	23	1	Northern Natural Gas Co. (Block 16 Field, Ward County, Tex., Permian Basin).	162,000	4-30-71	-----	7-1-71	22.0	20.50	
RI69-379	Aztec Oil & Gas Co..	5	6	El Paso Natural Gas Co. (Pictured Cliffs Formation, San Juan County, N. Mex.) (San Juan Basin).	78	5-5-71	6-5-71	" Accepted	13.0651	13.2601	RI69-379.
RI69-378	do-----	10	18	El Paso Natural Gas Co. (Dakota Formation, San Juan County, N. Mex., San Juan Basin).	1,050	5-3-71	6-3-71	" Accepted	14.0578	14.2678	RI69-378.
RI71-392	do-----										RI71-392.
RI69-379	do-----	14	6	do-----	462	5-5-71	6-5-71	" Accepted	14.0578	14.2678	RI69-379.
RI71-366	Aztec Oil & Gas Co. et al.	33	4	El Paso Natural Gas Co. (Dakota Formation, San Juan County, N. Mex., San Juan Basin).	1,050	5-3-71	6-3-71	" Accepted	14.0578	14.2678	RI71-366.
RI71-771	do-----	34	7	do-----	315	5-3-71	6-3-71	" Accepted	14.0578	14.2678	RI71-771.
RI71-1057	Jerome P. McHugh	2	4	El Paso Natural Gas Co. (Basin Dakota Field San Juan County, N. Mex.) (San Juan Basin).	2,400	5-3-71	7-4-71	"	13.0	14.0	
RI71-1058	Tenneco Oil Co-----	46	7	El Paso Natural Gas Co (Roberts & Sonora Field, Sutton County, Tex.) (Permian Basin).	244	4-29-71	-----	6-30-71	13.0019	17.500	RI70-550.
do-----		138	12	El Paso Natural Gas Co. (Monahans Field, Ward & Winkler Counties, Tex.) (Permian Basin).	368	4-29-71	-----	6-30-71	14.173	10.5	RI70-501.
do-----		210	2	El Paso Natural Gas Co. (East LeBarge Field, Sublette County, Wyo.)	1,599	4-29-71	-----	6-30-71	15.0	10.0	
do-----		118	3	Cimmarron Transmission Co, East Marletta Field, Love County, Oklahoma Other Area).	1,006	4-29-71	-----	7-2-71	17.0	18.0	RI69-564.
do-----		234	3	Arkansas Louisiana Gas Co. (Kinta Field, Le Flore County, Oklahoma Other Area).	6,622	4-29-71	-----	6-30-71	15.0	16.0	

See footnotes at end of table.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until	Cents per Mcf*		Rate in effect subject to refund in dockets Nos.
									Rate in effect	Proposed increased rate	
RI71-1059	Atlantic Richfield Co.	392	10	Arkansas Louisiana Gas Co. (Sentell Field, Bossier Parish, Northern Louisiana).		5-6-71	6-6-71	Accepted			
	do		11	do	176	5-6-71		7-7-71	14.854	19.000 21.000	
RI71-1060	Murphy Oil Corp. et al.	4	11	Arkansas Louisiana Gas Co. (Simsboro Field, Lincoln Parish, Northern Louisiana).		4-30-71	5-31-71	Accepted			
	do		12	do	41,665	4-30-71		7-1-71	14.603	20.0	

\* Unless otherwise stated, the pressure base is 14.65 p.s.i.a.  
 1 Rate of 27.32 cents suspended in Docket No. RI91-983 until Sept. 29, 1971.  
 2 Contract provides for a rate of 27.20 cents plus tax reimbursement.  
 3 Contract dated prior to Oct. 1, 1968.  
 4 Rate to be ESR in Docket No. RI71-983 on May 30, 1971.  
 5 Increase from fractured rate to contract rate.  
 6 For acreage added by Supplement No. 4 only.  
 7 Reflects partial reimbursement for full 2.65 percent New Mexico Emergency School Tax.  
 8 Excludes 1 cent per Mcf minimum guarantee for liquids.  
 9 Previously reported as 15.0578 cents inclusive of the 1-cent minimum guarantee for liquids which has never been collected.  
 10 Proposed rate is for sales under Supplement No. 3. Increase to contract rate.  
 11 Base rate subject to upward and downward adjustment.

12 Letter agreements dated Apr. 27, 1971 and Mar. 31, 1971, respectively, provide for increased rate.  
 13 Includes 1.334-cent tax reimbursement.  
 14 Includes 1.333-cent tax reimbursement.  
 15 Applicant filing from initial certificated rate to initial contract rate.  
 16 Applicable to production down to and including the Bodzaw Sand.  
 17 Applicable to production below the Bodzaw Sand. (Filing reflects no current deliveries.)  
 18 Accepted for filing to be effective as of the dates shown in the "Effective Date" column, subject to the applicable existing rate proceedings.  
 19 The pressure base is 16.025 p.s.i.a.  
 20 Accepted to be effective as of the date shown in the "Effective Date" column.  
 21 RI71-522 covered add acreage agreements.  
 22 Letter agreement dated Mar. 31, 1971 provides for increased rate.

Atlantic Richfield Co. proposes an increase from the initial certificated rate to the contract rate for sales of gas from added acreage under its FPC Gas Rate Schedule No. 608. The contract rate is presently being collected for sales of gas from all other acreage dedicated to the contract effective subject to refund in Docket No. RI69-457. Atlantic requests that if the proposed rate is suspended, for accounting convenience it be incorporated in the proceedings in Docket No. RI69-457. The request is granted.

The proposed increases of Aztec Oil & Gas Co. reflect the increase in the New Mexico Emergency School Tax for which respondent has not previously filed. Since Aztec's underlying rates are being collected subject to refund in suspension proceedings, the proposed tax increases are accepted for filing to the effective 30 days after filing subject to refund in the existing rate proceedings.

Gulf Oil Corp. proposes a substitute fractured increase from 18.08 cents to 21 cents per Mcf which does not exceed the corresponding rate filing limitation imposed in southern Louisiana and requests that the 60-day notice period begin on March 29, 1971, the filing date of the original increase. Concurrently, with the amended rate increase, Gulf submitted a proposed increase from the fractured rate of 21 cents to the contract rate of 27.32 cents which does exceed the corresponding rate filing limitation imposed in southern Louisiana and requests an effective date of June 1, 1971, 2 days after the 21-cent fractured rate will become effective. We will permit the 21-cent rate to become effective subject to refund on May 30, 1971 (61 days after the filing date of the original increase), in Docket No. RI71-983 and we will suspend the above ceiling 27.32-cent rate for 5 months from June 1, 1971.

Certain respondents request effective dates for which adequate notice was not given. Good cause has not been shown for granting these requests and they are denied.

All of the producers' proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's Statement of General Policy No. 61-1, as amended (18 CFR Ch. I, Pt. 2, § 2.56).

[FR Doc. 71-7866 Filed 6-7-71; 8:45 am]

[Docket No. OI71-118 etc.]

AMOCO PRODUCTION CO. ET AL.

Order Granting Waiver of the Intermediate Decision; Severing and Deferring Proceedings; and Confirming Briefing Dates

MAY 28, 1971.

These proceedings were set for hearing pursuant to paragraph 12 of our notice of proposed rule making in Docket No. R-389-A. On May 10, 1971, the presiding examiner certified to the Commission two motions made during the course of the above-entitled proceedings on May 7, 1971. Staff moved to waive the intermediate decision procedure in the above-entitled proceedings pursuant to § 1.30 (c) of the Commission's rules of practice and procedure. Additionally, Humble Oil & Refining Co. moved orally upon the record, to (a) omit the intermediate decision procedure as well as oral argument, subject to the parties' rights under subdivisions (ii), (iii), and (iv) of § 1.30 (c); and, (b) sever and defer from further consideration the Southern Louisiana applications, the Texas Gulf Coast applications, and the Hugoton-Anadarko application from these proceedings, leaving only the Permian Basin applications for decision herein.

The motion for severance of the Southern Louisiana proceedings was made in view of the fact that both the initial and reply briefs in AR69-1 are presently before the Commission; and further, with one exception, all sales involved in these proceedings are presently being made under temporary certificates. In regard to Texas Gulf Coast dockets, the Commission, in Opinion No. 595, established just and reasonable rates for new gas. The sole application involving a sale in the Hugoton-Anadarko Area has been conditionally withdrawn from these pro-

ceedings subject to receipt of a small producer certificate under the provisions of the Commission's Order No. 428 in Docket No. R-393.

Any party in opposition to the aforementioned motions was to file comments on or before May 17, 1971, which was the date set by the presiding examiner. Cities Service Oil Co. was the only party to file an answer in opposition to Humble's motion, and that only in regard to the portion of Humble's motion which would sever and defer the Southern Louisiana portion of these proceedings.

As a basis for its opposition, Cities argues that the Commission was fully aware of the pendency of the Southern Louisiana proceeding at the time of issuance of its order instituting this consolidated proceeding (February 22, 1971) and, that if the Commission had intended that the Southern Louisiana certificate applications consolidated herein should be disposed of in the Southern Louisiana proceeding it could have made provision for this in said order. Cities further stated that both direct and rebuttal evidence has been incorporated by reference, or presented directly by witnesses; hearings have been held and concluded, and cross-examination completed. Additionally, Cities averred that it has fully supported the price provided for in its contract covered by its Southern Louisiana certificate application in Docket No. CI71-237.

Reference is made, in both the Staff and Humble motions, to procedural and substantive considerations involved herein. Most of the testimony and related exhibits in these proceedings have been incorporated by reference from the consolidated Southern Louisiana Area Rate Proceeding, Dockets Nos. AR69-1 and AR61-2 et al. In addition, both the initial and reply briefs in the Southern Louisiana proceedings are presently

[Docket No. CP71-68, etc.]

**COLUMBIA LNG CORP. ET AL.****Order Consolidating Applications and Setting Date for Prehearing Conference**

MAY 28, 1971.

Columbia LNG Corp., Docket No. CP71-68; Consolidated Gas Supply Corp., Docket No. CP71-153; Southern Energy Co., Dockets Nos. CP71-151, CP71-264; Southern Natural Gas Co., Docket No. CP71-276.

Southern Energy Co. (Southern Energy), filed on November 25, 1970, an application in Docket No. CP71-151 pursuant to section 3 of the Natural Gas Act for an order authorizing the importation of 500,000 MM B.t.u. per day of liquefied natural gas (LNG) from Algeria at Savannah, Ga. The Commission, by order dated March 11, 1971, consolidated Southern Energy's section 3 application with similar application of Columbia LNG Corp. (Columbia) in Docket No. CP71-68 and Consolidated Gas Supply Corp. (Consolidated) in Docket No. CP71-153 for hearing and decision. The Commission's order indicated that applications pursuant to section 7 of the Act would be forthcoming from the import applicants, and that such applications would be further consolidated with these proceedings when filed.

Southern Energy's section 7 application was filed in Docket No. CP71-264 on May 4, 1971, and Southern Natural Gas Co. filed a related section 7 application in Docket No. CP71-276 on May 19, 1971. The due date for protests or petitions to intervene in both dockets is June 7, 1971. Section 7 applications by the two other import applicants have not as yet been filed.

The Commission's March 11, 1971, order stated that hearings on the Algerian LNG supply and marine transportation aspects, denominated as Phase I of the proceedings, of the related import proposals could go forward for the purposes of expedition prior to the filing of the related section 7 applications and their subsequent consolidation with the section 3 applications for hearing and decision. The hearings on Phase I matters have concluded.

Phase II hearings, on the domestic aspects of these related import proposals, commenced on May 11, 1971, and are still in progress. In Phase II, the respective import applicants presented testimony and exhibits relating to their respective domestic facilities, markets, alternatives, rate impact, financing, environmental considerations, and other matters relevant to the requirements under section 7 of the Natural Gas Act and the regulations thereunder.

As required by our prior order, the proceedings in Docket No. CP71-68 et al., will be further consolidated to include the applications in Dockets Nos. CP71-264 and CP71-267 and all parties per-

mitted to intervene in Docket No. CP71-68 et al., will be deemed intervenors in the two applications consolidated herein. However, it is necessary and appropriate that a procedure be established to avoid undue delay and eliminate unnecessarily duplicative hearings on section 7 issues.

A prehearing conference will be convened on June 8, 1971, to determine (1) what new matters, if any, are raised by the filing of the applications in Dockets Nos. CP71-264 and CP71-267 which require further hearings, and (2) to what extent new petitioners to intervene should be afforded an opportunity to explore matters previously covered in Phase II of the proceedings. Any new petitioner who requests the reexploration of Phase II matters must demonstrate by reference to the record that its request would not be unnecessarily duplicative.

We note that similar procedures will be necessary when the anticipated section 7 applications are filed by Columbia LNG Corp. and Consolidated Gas Supply Corp. Inasmuch as further hearings may be required on these applications, it is incumbent upon Columbia and Consolidated to file their section 7 applications without further delay in order not to hinder the timely disposition of these consolidated proceedings. The Commission granted applicants' request for expedition by its March 11, 1971, order.

The Commission finds:

(1) It is necessary and appropriate that the proceedings in the two above-named section 7 applications be consolidated with the proceedings in Columbia LNG Corporation, et al., Docket No. CP71-68 et al., for hearing and decision.

The Commission orders:

(A) The applications of Southern Energy Co. in Docket No. CP71-264 and Southern Natural Gas Co. in Docket No. CP71-276 are consolidated with the proceedings in Columbia LNG Corporation, et al., Docket No. CP71-68 et al., for hearing and disposition.

(B) All intervenors in the consolidated proceeding in Docket No. CP71-68 et al., will be deemed intervenors in the applications filed in Dockets Nos. CP71-264 and CP71-276 which are consolidated herein pursuant to ordering paragraph (A) above.

(C) A prehearing conference to determine the matters on which further Phase II hearings may be required in Dockets Nos. CP71-264 and CP71-276 be convened in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC, on June 8, 1971, at 10 a.m., e.d.s.t. The Chief Examiner will designate an Examiner to preside at the prehearing conference on these matters, pursuant to the Commission's rules of practice and procedure.

By the Commission.

[SEAL] KENNETH F. PLUMB,  
Acting Secretary.

[FR Doc.71-7941 Filed 6-7-71;8:40 am]

pending before the Commission for decision. It would be both duplicative and nonproductive to require the parties in these proceedings, including Cities Service, who are almost identical to the parties in the AR69-1 and AR61-2 et al. proceedings, to rebrief the same issues. Identical issues need only be considered once by the Commission. Therefore, granting the motions to waive the intermediate decision and defer the Southern Louisiana portion of these proceedings will obviate the necessity of the Commission having to reconsider arguments made in briefs which are presently before it.

The Commission finds:

(1) Upon the basis of the entire record, due and timely execution of its functions imperatively requires that the Commission omit the intermediate decision procedure as well as oral argument and render decision in these proceedings.

(2) In addition, good cause has been shown for (1) deferring the Southern Louisiana applications in these proceedings, and consolidating said applications for decision in the Southern Louisiana Area Rate Proceedings, Dockets Nos. AR69-1 and AR61-2 et al., which is presently pending before the Commission in accordance with the order issued therein on January 26, 1971; (2) severing the Texas Gulf Coast applications from these proceedings and issue them permanent certificates based upon the rates established in the Commission's recent Opinion No. 595, determining just and reasonable rates for natural gas produced in the Texas Gulf Coast Area; and (3) deferring the Hugoton-Anadarko application which has been conditionally withdrawn from these proceedings, subject to receipt of a small producer certificate under the provisions of the Commission's Order No. 428 in Docket No. R-393.

The Commission orders:

(A) The intermediate decision procedure and oral argument in these proceedings is hereby omitted in accordance with the provisions of section 1.30(c) of the Commission's rules of practice and procedure.

(B) Briefs shall be filed by the parties as provided for by the examiner herein; *Provided, however,* That any matter or issue which was briefed by any party hereto, including staff, in Dockets Nos. AR69-1 and AR61-2 et al., should not be briefed again.

(C) Applications involving the Southern Louisiana, Texas Gulf Coast, and Hugoton-Anadarko Areas are hereby deferred from these proceedings for the purposes stated above, leaving only the Permian Basin applications for Commission decision in these proceedings.

By the Commission.

[SEAL] KENNETH F. PLUMB,  
Acting Secretary.

[FR Doc.71-7940 Filed 6-7-71;8:46 am]

[Docket No. RI71-1051 etc.]

**SKELLY OIL CO., ET AL.**

**Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund<sup>1</sup>**

MAY 27, 1971.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

<sup>1</sup> Does not consolidate for hearing or dispose of the several matters herein.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR, Ch. I) and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supple-

ments shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the respondent or by the Commission. Each respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

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

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf*		Rate in effect subject to refund in dockets Nos.
									Rate in effect	Proposed increased rate	
RI71-1051.	Skelly Oil Co.	11	15	Tennessee Gas Pipeline Co., a division of Tenneco Inc. (East Bay City Field, Matagorda County, Tex., R.R. District No. 3).	\$163,272	4-28-71		10-29-71	21.0	\$24.25	RI71-865.
RI71-1052.	Mobil Oil Corp.	286	25	United Gas Pipe Line Co. (White Point, Saxet et al., Fields, San Patricio and Nueces Counties, Tex., R.R. District No. 4).	25,418	4-27-71		10-23-71	21.0	\$25.0	RI71-353.
RI71-1053.	Mobil Oil Corp. et al.	318	34	Transcontinental Gas Pipe Line Corp. (La Gloria Field, Brooks and Jim Wells Counties, Tex., R.R. District No. 4).	373,918	4-27-71		10-23-71	19.0	\$21.0	RI71-879.

\* The pressure base is 14.65 p.s.i.a.

<sup>1</sup> From fractured rates as result of Mar. 22, 1971 order (to qualify for shortened suspension period) to contract rate.

<sup>2</sup> As supplemented by Apr. 27, 1971, letter submitted on Apr. 29, 1971.

<sup>3</sup> Unilateral increase. Basis contract expired Apr. 1, 1971.

The proposed increased rates involved here relate to sales in the Texas gulf coast area. They were filed prior to the issuance of Opinion No. 595 on May 6, 1971 where the Commission determined the just and reasonable rates for sales in the Texas gulf coast area. The proposed rates exceed the applicable area base rates determined in that opinion. In these circumstances we shall suspend the proposed rates for 5 months. Such action, in effect, will result ultimately in the rejection of these filings unless Opinion No. 595 is stayed, inasmuch as the section 5(a) determinations in that opinion are effective as of August 1, 1971.

[FR Doc. 71-7942 Filed 6-7-71; 8:47 am]

**INTERAGENCY TEXTILE ADMINISTRATIVE COMMITTEE**  
**CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN THE REPUBLIC OF CHINA**

**Entry or Withdrawal From Warehouse for Consumption**

JUNE 3, 1971.

On January 6, 1971, there was published in the FEDERAL REGISTER (36 F.R.

189), a letter dated December 29, 1970, from the Chairman of the President's Cabinet Textile Advisory Committee to the Commissioner of Customs, establishing levels of restraint applicable to certain specified categories of cotton textiles and cotton textile products produced or manufactured in the Republic of China and exported to the United States during the 6-month period beginning January 1, 1971. As set forth in that letter, the levels of restraint are subject to adjustment pursuant to paragraphs 5 and 15 of the bilateral cotton textile agreement of October 12, 1967, as amended and extended, between the Governments of the United States and the Republic of China, which provide that within the aggregate and applicable group limits, limits on certain categories may be exceeded by not more than five (5) percent; and for the limited carryover of shortfalls in certain categories to the next agreement year. The aforementioned letter also provided that any such adjustment in the levels of restraint would be made to the Commissioner of Customs by letter from the Chairman of the Interagency Textile Administrative Committee.

Accordingly, at the request of the Government of the Republic of China and

pursuant to the provisions of the bilateral agreement referred to above, there is published below a letter of May 29, 1971, from the Chairman of the Interagency Textile Administrative Committee to the Commissioner of Customs amending the level of restraint applicable to cotton textile products in Category 53 for the 6-month period which began on January 1, 1971.

**STANLEY NEHMER,**  
*Chairman, Interagency Textile Administrative Committee and Deputy Assistant Secretary for Resources.*

ASSISTANT SECRETARY OF COMMERCE  
INTERAGENCY TEXTILE ADMINISTRATIVE COMMITTEE

COMMISSIONER OF CUSTOMS,  
Department of the Treasury,  
Washington, D.C. 20225.

MAY 29, 1971.

DEAR MR. COMMISSIONER: On December 29, 1970, the Chairman of the President's Cabinet Textile Advisory Committee, directed you to prohibit entry of cotton textiles and cotton textile products in certain specified categories, produced or manufactured in the Republic of China, and exported to the United States on or after January 1, 1971, in excess of the designated levels of restraint. The Chairman further advised you that in

the event that there were any adjustments<sup>1</sup> in the levels of restraint you would be so informed by letter from the Chairman of the Interagency Textile Administrative Committee.

Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, pursuant to paragraphs five (5) and fifteen (15) of the bilateral cotton textile agreement of October 12, 1967, as amended and extended, between the Governments of the United States and the Republic of China, in accordance with Executive Order 11052 of September 28, 1962, as amended by Executive Order 11214 of April 7, 1965, and under the terms of the aforementioned directive of December 29, 1970, the level of restraint provided in that directive for cotton textile products in Category 53, produced or manufactured in the Republic of China and exported from the Republic of China to the United States, for the period beginning January 1, 1971, and extending through June 30, 1971, is hereby amended as follows, to be effective as soon as possible:

	<i>Amended</i>	
	<i>6-month</i>	
	<i>level of</i>	
<i>Category</i>	<i>restraint<sup>2</sup></i>	
53 -----	dozen	8.157

The actions taken with respect to the Government of the Republic of China and with respect to imports of cotton textiles and cotton textile products from the Republic of China have been determined by the President's Cabinet Textile Advisory Committee to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the notice provisions of 5 U.S.C. 553 (Supp. V, 1965-69). This letter will be published in the FEDERAL REGISTER.

Sincerely yours,

STANLEY NEHMER,  
*Chairman, Interagency Textile Administrative Committee, and Deputy Assistant Secretary for Resources.*

[FR Doc. 71-7962 Filed 6-7-71; 8:45 am]

**CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN MEXICO**

On June 2, 1967, the U.S. Government, in furtherance of the objectives of, and under the terms of, the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, concluded a comprehensive bilateral cotton textile agreement with the Government of Mexico concerning exports of cotton textiles and cotton textile products from Mexico to the United States over a 4-year period beginning on May 1, 1967. The agreement

<sup>1</sup> The term "adjustments" refers to those provisions of the bilateral cotton textile agreement of Oct. 12, 1967, as amended and extended, between the Governments of the United States and the Republic of China which provide in part that within the aggregate and applicable group limits, limits on certain categories may be exceeded by not more than five (5) percent; for the limited carryover of shortfalls in certain categories to the next agreement year; and for administrative arrangements.

<sup>2</sup> This level has not been adjusted to reflect entries made on or after—January 1, 1971.

was initially extended through May 31, 1971, and further extended through June 30, 1971. Among the provisions of the agreement, as extended, are those establishing an aggregate limit, group limits, and specific limits for Categories 9, 10, 22, 23, 26, 27, 63 and 64, with sub-limits on duck fabric (parts of Categories 26 and 27), and on zipper tapes (part of Category 64).

There is published below a letter of May 28, 1971, from the Chairman of the President's Cabinet Textile Advisory Committee to the Commissioner of Customs, directing that the amounts of cotton textiles and cotton textile products in Categories 1 through 64, produced or manufactured in Mexico, which may be entered or withdrawn from warehouse for consumption in the United States for the period beginning May 1, 1971, and extending through June 30, 1971, be limited to designated levels. This letter and the actions pursuant thereto are not designed to implement all of the provisions of the bilateral agreement, as extended, but are designed to assist only in the implementation of certain of its provisions.

STANLEY NEHMER,  
*Chairman, Interagency Textile Administrative Committee, and Deputy Assistant Secretary for Resources.*

THE SECRETARY OF COMMERCE  
PRESIDENT'S CABINET TEXTILE ADVISORY COMMITTEE

COMMISSIONER OF CUSTOMS,  
*Department of the Treasury,*  
*Washington, D.C. 20226.*

MAY 28, 1971.

DEAR MR. COMMISSIONER: Under the terms of the Long-term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, pursuant to the bilateral cotton textile agreement of June 2, 1967, as extended, between the Governments of the United States and Mexico, and in accordance with Executive Order 11052 of September 28, 1962, as amended by Executive Order 11214 of April 7, 1965, you are directed to prohibit, effective June 1, 1971, and for the period beginning May 1, 1971 and extending through June 30, 1971, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Categories 1 through 64, produced or manufactured in Mexico in excess of the designated levels of restraint set forth below.

The combined level of restraint for Categories 1, 2, 3, and 4, shall be 2,281,276 pounds. Of this amount not more than 572,522 pounds shall be in Categories 3 and 4.

The overall level of restraint for Categories 5 through 27 shall be 4,254,272 square yards.

Within the overall level of restraint for Categories 5 through 27, the following specific levels of restraint shall apply:

<i>Category</i>	<i>2-month level of restraint</i>
9 -----square yards	810, 338
10 -----do	405, 168
22 -----do	810, 338
23 -----do	607, 764
26 -----do <sup>1</sup>	1, 215, 506
27 -----do <sup>1</sup>	405, 168

<sup>1</sup> Of the total amount for Categories 26 and 27, not more than 911,630 square yards shall be in duck fabric, T.S.U.S.A. Nos:

Within the overall level of restraint for Categories 5 through 27, each category without a specific level of restraint is subject to a consultation level of 101,293 square yards, pursuant to paragraph 7 of the bilateral agreement. If appropriate, future directions concerning these categories will be made to you by letter from the Chairman of the Interagency Textile Administrative Committee.

The overall level of restraint for Categories 28 through 64, shall be 445,686 square yards equivalent. There was attached to the directive of April 28, 1969, from the Chairman of the President's Cabinet Textile Advisory Committee, concerning cotton textiles and cotton textile products from Mexico a table of the rates of conversion into square yard equivalents of the aforesaid categories which may be used in implementing this part of this directive.

Within this overall level of restraint for Categories 28 through 64, the following specific levels of restraint shall apply:

<i>Category</i>	<i>2-month level of restraint</i>
63 -----	22,284 pounds.
64 -----	66,042 pounds (of which not more than 18,232 pounds shall be in zipper tapes, T.S.U.S.A. No. 347,3340).

Within the overall level of restraint for Categories 28 through 64, each category without a specific level of restraint is subject to a consultation level of 70,904 square yards equivalent, pursuant to paragraph 7 of the bilateral agreement. If appropriate, future directions concerning these categories will be made to you by letter from the Chairman of the Interagency Textile Administrative Committee.

In carrying out this directive, cotton textiles and cotton textile products in Categories 1 through 64 produced or manufactured in Mexico and which have been exported to the United States from Mexico prior to May 1, 1971, shall to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the period May 1, 1970, through April 30, 1971. In the event that any level of restraint for the period ending April 30, 1971, has been exhausted by previous entries, such goods shall be subject to the directives set forth in this letter.

The levels of restraint set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of June 2, 1967, as extended, between the Governments of the United States and Mexico which provide in part that within the aggregate limit, the group limits for Group I and Group II may be exceeded by not more than 10 percent in the Group limit on Group III may be exceeded by not more than 5 percent; within the aggregate and applicable group limits, limits on certain categories may be exceeded by not more than 5 percent; for the limited carryover of shortfalls in certain categories to the next agreement year; and for administrative arrangements. Any appropriate adjustments pursuant to the provisions of the bilateral agreement referred to above, will be made to you by letter from the Chairman of the Interagency Textile Administrative Committee.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 17, 1969

- 320...01 through 04, 06, 08
- 321...01 through 04, 06, 08
- 322...01 through 04, 06, 08
- 326...01 through 04, 06, 08
- 327...01 through 04, 06, 08
- 328...01 through 04, 06, 08

(33 F.R. 582), and amendments thereto on March 15, 1968 (33 F.R. 4600).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Mexico and with respect to imports of cotton textiles and cotton textile products from Mexico have been determined by the President's Cabinet Textile Advisory Committee to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the notice provisions of 5 U.S.C. 553 (Supp. V, 1965-69). This letter will be published in the FEDERAL REGISTER.

Sincerely,

MAURICE H. STANS,  
Secretary of Commerce, Chairman,  
President's Cabinet Textile Advisory Committee.

[FR Doc.71-7963 Filed 6-7-71;8:00 am]

## SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

### AMERICAN RACEWAYS INC.

#### Order Suspending Trading

JUNE 2, 1971.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of American Raceways Inc., a Delaware corporation, and all other securities of American Raceways Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c) (5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period June 2, 1971, through June 11, 1971.

By the Commission.

[SEAL] THEODORE L. HUMES,  
Associate Secretary.

[FR Doc.71-7946 Filed 6-7-71;8:47 am]

[File No. 24A-2017]

### GROVE STUDIO, INC.

#### Order Temporarily Suspending Exemption, Statement of Reasons Thereof, and Notice of Opportunity for Hearing

JUNE 1, 1971.

I. Grove Studio, Inc. (Issuer), a Florida corporation, 355 Northeast 59th Terrace, Miami, FL 33137, filed with the Commission on September 18, 1970, a notification and Rule 257 Statement, relating to a proposed offering of 48,000 shares of \$0.01 par value common stock

at \$1 per share for an aggregate of \$48,000, for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to section 3(b) thereof and Regulation A promulgated thereunder. By amendment filed December 9, 1970, the proposed offering was reduced to 47,000 shares at \$1 per share for an aggregate of \$47,000. An amendment to Item 11 of Form 1-A was filed December 31, 1970. No additional amendments have been filed and a commencing date for the offering has not been established.

II. The Commission has reasonable cause to believe, on the basis of information reported to it by its staff, that:

A. As provided in Rule 252(d) of Regulation A, no exemption is available for the securities of Grove Studio, Inc., in that:

Joseph Garofalo, a principal security holder of the issuer and an unnamed affiliate, is subject to an order of permanent injunction enjoining Joseph Garofalo, doing business as Josephson Co., from violating the antifraud and net capital provisions of the Securities Exchange Act of 1934.

B. No exemption is available to the issuer under the provisions of Rule 257 of Regulation A for the shares covered by the notification, in that:

Prior to the clearance of the Regulation A filing and the establishment of a commencing date for the offering, Joseph Garofalo, doing business as Josephson Co., 99 Wall Street, New York, NY, sold 21,600 shares of the issuer's unregistered common stock for an aggregate of \$21,600 in violation of the registration requirements of the Securities Act of 1933 which caused the \$50,000 ceiling imposed by Rule 257 to be exceeded.

C. The terms and conditions of Regulation A have not been met in that all information required by Form 1-A and Schedule I has not been disclosed, particularly with reference to Items 2 and 9 of Form 1-A and paragraph 9 of Schedule I.

D. The issuer's notification and Rule 257 Statement contain untrue statements of material facts and omit to state material facts necessary to make the statements made in the light of the circumstances under which they were made, not misleading, particularly in that:

1. The notification and Rule 257 Statement state that the issuer's securities will be offered and sold only by personal solicitation of its officers and directors without the services of a broker-dealer whereas 21,600 shares were offered and sold by Joseph Garofalo, doing business as Josephson Co., a broker-dealer registered with this Commission.

2. The Rule 257 Statement fails to disclose any information concerning the issuer's development of franchise operations although a part of the proceeds is designated for that purpose.

3. The Rule 257 Statement fails to disclose adequately the estimated amount of

proceeds to be used to pay salaries of the issuer's officers.

4. The Rule 257 Statement fails to disclose adequately and accurately full information concerning the issuer's business operations.

E. The issuer has failed to cooperate with the Commission in that it has failed to furnish requested information.

F. The offering, as made, was made in violation of sections 5 and 17 of the Securities Act of 1933, as amended, and if the offering should continue to be made, such further offering would operate as a fraud and deceit upon the purchasers in violation of section 17(a) of the Securities Act of 1933, as amended, for the reasons described above.

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 Regulations 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 it 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 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 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] THEODORE L. HUMES,  
Associate Secretary.

[FR Doc.71-7947 Filed 6-1-71;8:47 am]

[31-714]

### HILCO COAST PROCESSING CO.

#### Notice of Filing of Application

JUNE 1, 1971.

Notice is hereby given that Hilco Coast Processing Co. (Hilco Coast), 827 Fort Street, Honolulu, HI 96813, has filed an application, pursuant to section 2(a)(3) of the Public Utility Holding Company Act of 1935 (Act), for an order declaring it not to be an electric utility company

for the purposes of the Act. All interested persons are referred to the application, which is summarized below, for a complete statement of the facts.

Hilo Coast is a cooperative association organized under the Agricultural Code of the State of California on April 19, 1971. Pepeekeo Sugar Co. (Pepeekeo) and Mauna Kea Sugar Co., Inc. (Mauna Kea), both are Hawaii corporations engaged in the operation of sugar plantations and processing facilities on the Island of Hawaii. Prior to December 31, 1971, they propose to transfer to Hilo Coast their sugar processing assets, valued at approximately \$10,500,000, in exchange for capital stock of Hilo Coast. Both companies grow sugar cane on their plantations and process the cane into raw sugar and molasses at sugar factories located on the coast of the Island of Hawaii.

Brewer and Co., Ltd. (Brewer), owns 95.53 percent of the capital stock of Pepeekeo and 99.09 percent of the capital stock of Mauna Kea. Brewer, through its subsidiary companies, is engaged in: Sugar production, the purchase and sale of molasses, sugar trading, fertilizer, and herbicide distribution, international agriculture and agricultural services, operation of a shipyard, a building materials business and the operation of an insurance underwriting company. It is stated that neither Brewer nor any of its subsidiary companies operate any gas or electric utility or own any securities of a gas or electric utility operating or holding company. Approximately 53.8 percent of the outstanding common stock of Brewer is owned by two subsidiary companies of International Utilities Corp. (IU), a Maryland corporation. IU is an exempt public utility holding company under section 3(a)(5), of the Act. (International Utilities Corporation, 21 SEC 283.) IU has no interests in Hawaii other than its 53.8 percent ownership of Brewer.

There are presently about 400 individual farmers (independent growers) who grow sugar cane and have it processed at the Pepeekeo and Mauna Kea factories. About 17 percent of the land farmed by the independent growers is owned by them and about 83 percent of the land is leased from Pepeekeo, Mauna Kea, and other landowners. The independent growers plan to organize a growers cooperative under the Agricultural Cooperative Law of the State of Hawaii, which cooperative will purchase stock of Hilo Coast for \$4,500,000 (\$3,920,000 in cash and \$580,000 in road improvements). As a result of these transactions, about 70 percent of the stock—and voting power—of Hilo Coast will be owned by Pepeekeo and Mauna Kea and about 30 percent by the growers cooperative, assuming all present growers join this cooperative. The ratio is in the same proportion as the existing raw sugar production at Pepeekeo and Mauna Kea, i.e., 70 percent from company-owned cane and 30 percent from independent growers' cane. The ratio will be adjusted annually to conform to changes in production by the plantations and the growers.

In recent years Pepeekeo and Mauna Kea have been only marginally profitable. The two companies operate four sugar factories at the villages of Hakalau, Pepeekeo, Papaikou, and Wainaku. The existing factories are obsolete and must be modernized or consolidated into one or two larger factories, if viable operations are to continue. Brewer's studies indicate that the most economical way to do this is to modernize and enlarge the Pepeekeo factory by doubling its capacity, to modernize the Papaikou factory and to abandon the other two.

Sugar cane in Hawaii, which is a large, stiff grass, grows to lengths as high as 30 feet before it is harvested. It is then transported to the sugar factory where it is washed, shredded and put through rollers to squeeze out the juice. The juice is then clarified into crystallized raw sugar by boiling under vacuum. The cleaning plant trash (principally cane leaves) and the surplus fiber from the sugar cane stalk (bagasse) are currently dumped into the ocean to dispose of them. The production of raw sugar from sugar cane results in a tremendous amount of bagasse and cleaning plant trash.

The dumping of bagasse and cleaning plant trash into the ocean creates an ecological problem, as the material takes a long time to disintegrate and sink. Federal and State Water Pollution laws and regulations require that the plantations end this dumping practice. Disposing of the trash and bagasse by hauling would cost an estimated \$1 million annually.

It is proposed that the bagasse and cleaning plant trash be used as fuel in the boiler of the modernized Pepeekeo sugar factory to create steam which can be used to power a turbine generator (22 megawatt capacity) to, in turn, create electrical energy. Electrical energy will be utilized in the operation of the sugar factory itself, but there will be an excess of electrical energy because the amount of the bagasse and trash which must be consumed to solve the pollution problem will produce more steam than necessary for the electric power requirements of the sugar factory. The excess electrical energy is proposed to be sold at wholesale to Hilo Electric Light Co., Ltd. (Helco), the public utility company operating on the Island of Hawaii. Helco is a wholly owned subsidiary of Hawaiian Electric Co., Inc. (Heco), an exempt holding company.

It is stated that in order to make the project economically feasible and to secure financing, it is necessary for Hilo Coast to obtain the revenues from the sale of the excess electrical energy to Helco. Of the total energy (B.t.u.s produced by the sugar factory boiler, 33 percent will not be recovered, 45 percent will be consumed in processing sugar cane, 5 percent will be utilized as electrical energy in the sugar factory, and 17 percent will be sold as electrical energy of Helco. Of the electrical energy generated by the turbine generator, about one-fourth will be utilized in the sugar factory and about three-fourths

will be sold to Helco, at least during the initial period. Brewer has undertaken discussions with Mitsui & Co. of Japan looking towards the installation of another jointly-owned facility at the Pepeekeo factory to manufacture pulp from bagasse, which pulp will be exported to Japan to make paper. Negotiations on this project are still in progress, but if the pulp facility is built, additional electrical generating capacity will be required and as a result only about one-half of the total energy produced at the Pepeekeo factory will be sold to Helco and the balance will be used in the sugar factory and the pulp mill.

It is estimated that for the calendar year 1974, the first full year of operation, electrical energy sales to Helco will amount to about 113 million kilowatt hours, producing operating revenues of \$1,038,000 or 4.9 percent of Hilo Coast's total operating revenues and operating expenditures of the electric power facility will be \$444,000 or 5.2 percent of Hilo Coast's total operating expenditures. Net operating proceeds from electrical energy sales will be \$594,000 or 4.6 percent of Hilo Coast's total net operating proceeds.

In the absence of an exemption, Hilo Coast would become an "electric utility company" within the definition contained in section 2(a)(3) of the Act when it begins the sale of its excess electrical energy to Helco (on or before September 1, 1973) because it would then be a company which owns or operates facilities used for the generation of electrical energy for sale. This would make "holding companies" of the entities which control Hilo Coast—Pepeekeo, Mauna Kea, Brewer, and IU (and possibly the cooperative to be organized by the independent growers). It is asserted that Hilo Coast is and will be primarily engaged in the sugar business and will be selling only a small amount of excess electrical energy. Accordingly, Hilo Coast believes that it is not necessary in the public interest or for the protection of investors or consumers that it be considered an electric utility company for the purposes of the Act.

Notice is further given that any interested person may, not later than June 24, 1971, request in writing that a hearing be held in respect of the request for exemption, stating the nature of his interest and the reasons for such request, and the issues of fact or law which he desires to controvert; or he may request that he be notified should the Commission order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date the Commission may grant the exemption requested, or take such other action as it deems appropriate.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] THEODORE L. HUMES,  
Associate Secretary.

[FR Doc.71-7948 Filed 6-7-71;8:47 am]

[811-1946]

**NORTHWESTERN INVESTMENT FUND  
OF NORTHWESTERN NATIONAL  
BANK**

**Notice of Filing of Application for  
Order Declaring That Company Has  
Ceased To Be an Investment  
Company**

JUNE 1, 1971.

Notice is hereby given that Northwestern Investment Fund of Northwestern National Bank (Applicant), Seventh and Marquette, Minneapolis, MN 55480, an open-end, diversified, management investment company registered under the Investment Company Act of 1940 (Act), has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of representations contained therein, summarized below.

Applicant was established pursuant to a resolution of the Board of Directors, adopted on August 21, 1969, of Northwestern National Bank of Minnesota (Bank) and registered under the Act on September 24, 1969. Applicant proposed to operate as a collective investment fund, pursuant to regulations of the Comptroller of the Currency which would have allowed Bank to accept custody and investment responsibility of accounts of at least \$5,000 pursuant to agency agreements authorizing the Bank to invest such funds, in a collective investment fund in which each investor would share in proportion to the amount of his funds included in the Fund.

Because of the existence of litigation challenging the legality of accounts of the type contemplated by the Fund, no such accounts have been accepted by the Bank and the Bank has never made a public offering of units of participation in the Fund and the Fund has no assets or liabilities. On April 5, 1971, the Supreme Court of the United States announced its decision in the litigation referred to above, finding that the operation by a national bank of an investment fund of the type contemplated by the Bank would be illegal under certain provisions of the Federal banking laws. In view of the foregoing decision of the Supreme Court Applicant will not be activated.

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.

Notice is further given that any interested person may, not later than June 18, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a

statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order 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 Corporate Regulation, pursuant to delegated authority.

[SEAL] THEODORE L. HUMES,  
Associate Secretary.

[FR Doc.71-7949 Filed 6-7-71;8:47 am]

[811-1656]

**ROMAN INTERNATIONAL, INC.**

**Notice of Proposal To Terminate  
Registration**

JUNE 1, 1971.

Notice is hereby given that the Commission proposes, pursuant to section 8(f) of the Investment Company Act of 1940 (Act), to declare by order upon its own motion that Roman International, Inc. (Roman), 4 Reihl Street, East Paterson, NJ 07407, a corporation organized under the laws of New Jersey and registered under the Act as a closed-end, nondiversified management investment company, has ceased to be an investment company.

Fund was organized in New Jersey on June 6, 1967, and registered as an investment company on October 30, 1967. Roman currently has 33,500 shares outstanding held by 25 shareholders, all of whom are natural persons. Roman does not propose to make a public offering of its shares.

Section 3(c)(1) of the Act, in pertinent part, excepts from the definition of an investment company within the meaning of the Act any issuer whose outstanding securities (other than short-term paper) are beneficially owned by not more than 100 persons and which is not making and does not propose to make a public offering of its securities.

Section 8(f) of the Act provides in pertinent part, that when the Commission, on its own motion, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than June 18, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the company at the address set forth 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 under the Act, an order disposing of the matter may be issued by the Commission upon the basis of the information stated in this notice, unless an order for hearing upon this matter shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] THEODORE L. HUMES,  
Associate Secretary.

[FR Doc.71-7950 Filed 6-7-71;8:47 am]

**SMALL BUSINESS  
ADMINISTRATION**

[Delegation of Authority No. 7-A-1]

**DIRECTOR, OFFICE OF  
ADMINISTRATIVE SERVICES**

**Delegation of Administrative  
Activities**

I. Pursuant to the authority delegated by the Assistant Administrator for Administration to the Deputy Assistant Administrator for Administration (Management) in Delegation of Authority No. 7-A (36 F.R. 9585), there is hereby re-delegated to the Director, Office of Administrative Services, the following authority:

## TARIFF COMMISSION

[337-L-44]

### COLD-FORMED MOUNTS FOR SEMICONDUCTORS

#### Extension of Time for Filing Written Views

On April 26, 1971, the U.S. Tariff Commission published notice of the receipt of a complaint under section 337 of the Tariff Act of 1930, filed by the Nippert Co., of Delaware, Ohio, alleging unfair methods of competition and unfair acts in the importation and sale of certain cold-formed mounts for semiconductors (36 F.R. 8076). Interested parties were given until June 11, 1971, to file written views pertinent to the subject matter of a preliminary inquiry into the allegations of the complaint. The Commission has extended the time for filing written views until the close of business June 25, 1971.

Issued: June 3, 1971.

By order of the Commission.

[SEAL] KENNETH R. MASON,  
Secretary.

[FR Doc.71-7961 Filed 6-7-71;8:47 am]

## DEPARTMENT OF LABOR

Office of the Secretary

### BELLA MIA MANUFACTURING CORP.

#### Notice of Certification of Eligibility of Workers To Apply for Adjustment Assistance

Under date of March 8, 1971, the U.S. Tariff Commission made a report of the results of its investigation (TEA-W-59) under section 301(c)(2) of the Trade Expansion Act of 1962 (76 Stat. 884) in response to a petition for determination of eligibility to apply for adjustment assistance submitted on behalf of workers formerly employed by the Bella Mia Manufacturing Corp., Brooklyn, N.Y. In this report, the Commission being equally divided, made no finding with respect to whether articles like or directly competitive with the footwear produced by Bella Mia Manufacturing Corp. are, as a result in major part of concessions granted under trade agreements, being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers. The President subsequently decided, under the authority of section 330(d)(1) of the Tariff Act of 1930 as amended to consider the findings of those Commissioners who found in the affirmative as the finding of the Commission.

Upon receipt of the President's authorization, the Department, through the Acting Director of the Office of

Foreign Economic Policy, Bureau of International Labor Affairs, instituted investigations. Following this, the Director made a recommendation to me relating to the matter of certification (Notice of Delegation of Authority and Notice of Investigation, 34 F.R. 18342; 36 F.R. 7625; 29 CFR Part 90). In that recommendation he noted that significant layoffs caused by imports began to occur the week beginning November 2, 1969, at the Bella Mia Manufacturing Corp. which closed on February 17, 1970. After due consideration, I make the following certification:

All workers (hourly, piecework, and salaried), of the Bella Mia Manufacturing Corp. plant located at Brooklyn, N.Y., who became unemployed or underemployed after November 2, 1969, are eligible to apply for adjustment assistance under title III, chapter 3, of the Trade Expansion Act of 1962.

Signed at Washington, D.C., this 28th day of May 1971.

HERBERT N. BLACKMAN,  
Deputy Assistant Secretary for  
Trade and Adjustment Policy.

[FR Doc.71-7958 Filed 6-7-71;8:47 am]

### BROWN SHOE CO. AND JOHNSON, STEPHENS, AND SHINKLE SHOE CO.

#### Notice of Certification of Eligibility of Workers To Apply for Adjustment Assistance

Under dates of February 8, 1971, and March 8, 1971, respectively, the U.S. Tariff Commission made two reports of the results of its investigations (TEA-W-40 and TEA-W-65), under section 301(c)(2) of the Trade Expansion Act of 1962 (76 Stat. 884) in response to petitions for determination of eligibility to apply for adjustment assistance submitted on behalf of workers formerly employed by the Brown Shoe Co., Mattoon, Ill., and Johnson, Stephens, and Shinkle Co., Vandalia, Ill. In these reports, the Commission being equally divided, made no finding with respect to whether articles like or directly competitive with the women's and misses' footwear produced by Brown Shoe Co.; and the footwear produced by Johnson, Stephens, and Shinkle Shoe Co. are, as a result in major part of concessions granted under trade agreements, being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers at the plants concerned. The President subsequently decided, under the authority of section 330(d)(1) of the Tariff Act of 1930 as amended to consider the findings of those Commissioners who found in the affirmative as the finding of the Commission.

A. *Administrative services.* 1. To contract for supplies, materials, and equipment, printing, transportation, communications, space, and special services for the Agency.

2. To enter into contracts for supplies and services pursuant to Delegation of Authority No. 410 dated March 26, 1962 (27 F.R. 3017), from the Administrator of the General Services Administration to the Heads of Executive Agencies.

3. To rent temporarily, within the District of Columbia or elsewhere, such hotel or other accommodations as are needed to facilitate the conduct of meetings of SBA advisory councils.

II. The specific authorities delegated herein may be redelegated.

III. All authority delegated herein may be exercised by any SBA employee designated as Acting Director, Office of Administrative Services.

Effective date, February 23, 1971

ARTHUR D. HORNER,  
Acting Deputy Assistant Administrator for Administration (Management).

[FR Doc.71-7926 Filed 6-7-71;8:45 am]

[Delegation of Authority No. 7-B-1]

### DIRECTOR, OFFICE OF BUDGET AND FINANCE ET AL.

#### Delegation of Financial Activities

I. Pursuant to the authority delegated by the Assistant Administrator for Administration to the Deputy Assistant Administrator for Administration (Comptroller) in Delegation of Authority No. 7-B (36 F.R. 9585), the following authority is hereby redelegated to the specific positions as indicated herein:

A. *Director, Office of Budget and Finance.* To assign, endorse, transfer, deliver, or release (but in all cases without representation, recourse, or warranty) promissory notes, bonds, debentures, and other obligating instruments on all loans or investments made or serviced by SBA when paid in full or when transferred to the Department of Justice for liquidation.

B. *Chief, Accounting Operations Division, and Chief, Fiscal Branch.* Item I.A. above.

C. *Chief, Financial Operations Division, and Chief, Fiscal Examination Branch.* Item I.A. above.

II. The specific authorities delegated herein may not be redelegated.

III. All authority delegated herein may be exercised by any SBA employee designated as acting in that position.

Effective date, February 23, 1971.

PAUL S. HOWELL,  
Acting Deputy Assistant Administrator for Administration (Comptroller).

[FR Doc.71-7927 Filed 6-7-71;8:46 am]

Upon receipt of the President's decision, the Department, through the Acting Director of the Office of Foreign Economic Policy, Bureau of International Labor Affairs, instituted investigations. Following this, the Director made recommendations to me relating to the matter of certifications (Notice of Delegation of Authority and Notice of Investigation, 34 F.R. 18342; 36 F.R. 7625; 29 CFR Part 90). In the recommendation, he noted that significant layoffs caused by imports began to occur on July 11, 1970, at the Brown Shoe Co. and that layoffs continued until the plant closed September 1, 1970. The Director further reported that significant layoffs caused by imports began to occur on October 8, 1969, at Johnson, Stephens, and Shinkle Shoe Co., and continued until the plant closed by April 25, 1970. After due consideration, I make the following certifications:

All workers (hourly, piecework, and salaried) of the Brown Shoe Co. plant located at Mattoon, Ill., who became unemployed or underemployed after July 11, 1970, are eligible to apply for adjustment assistance under title III, chapter 3, of the Trade Expansion Act of 1952.

All workers (hourly, salaried, and piecework) of the Johnson, Stephens, and Shinkle Shoe Co. plant located at Vandalia, Ill., who became unemployed or underemployed after October 8, 1969, are eligible to apply for adjustment assistance under title III, chapter 3, of the Trade Expansion Act of 1952.

Signed at Washington, D.C., this 28th day of May 1971.

HERBERT N. BLACKMAN,  
Deputy Assistant Secretary for  
Trade and Adjustment Policy.

[FR Doc. 71-7959 Filed 6-7-71; 8:47 am]

### ESTEY PIANO CO.

#### Notice of Revised Certification of Eligibility of Workers To Apply for Adjustment Assistance

Pursuant to the provisions of section 302 of the Trade Expansion Act of 1962, the President's Proclamation 3964 of February 21, 1970 (35 F.R. 3645), and a petition filed and investigation conducted pursuant to the provisions of such section as authorized under 29 CFR Part 90 and notices in 34 F.R. 18342 and 35 F.R. 12440, a certification under section 302(b) (2) of such Act was made on September 24, 1970, certifying that workers of the Estey Piano Corp. plant in Bluffton, Ind., described in the Notice of Certification (36 F.R. 15186), are eligible to apply for adjustment assistance under chapter 3, title III, of such Act. On the basis of a further showing pursuant to section 302(b) (2) of such Act and further investigation by the Director of the Office of Foreign Economic Policy, and pursuant to the provisions of section 302(d) of such Act, the certification set forth in the Notice of Certification published in 36 F.R. 15186 is hereby revised to include additional unemployment and underemployment of workers at the company headquarters in Union, N.J., for whom the increased imports which the

Tariff Commission had determined to result from concessions granted under trade agreements are hereby determined to have caused or threatened to cause unemployment. Such additional unemployment or underemployment resulted from the total cessation in early May 1971 of piano production by Estey which affected not only employees from the plant at Bluffton, Ind., but also those employed at the company headquarters in Union, N.J.

Such revised certification is hereby made as follows:

All workers of the Estey Piano Corp. plant at Bluffton, Ind., who became or will become unemployed or underemployed after July 16, 1970, and all workers of the Estey Piano Corp. company headquarters at Union, N.J., who became or will become unemployed or underemployed after May 6, 1971, are eligible to apply for adjustment assistance under chapter 3, and title III of the Trade Expansion Act of 1952.

Signed at Washington, D.C., this 28th day of May 1971.

HERBERT N. BLACKMAN,  
Deputy Assistant Secretary for  
Trade and Adjustment Policy.

[FR Doc. 71-7960 Filed 6-7-71; 8:47 am]

## INTERSTATE COMMERCE COMMISSION

### FOURTH SECTION APPLICATIONS FOR RELIEF

JUNE 3, 1971.

Protests to the granting of an application must be prepared in accordance with § 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

#### LONG-AND-SHORT HAUL

FSA No. 42216—*Phthalic anhydride to Baton Rouge, La.* Filed by Illinois Freight Association, agent (No. 368), for interested rail carriers. Rates on phthalic anhydride, in tank carloads, as described in the application, from Millsdale, Illinois, to Baton Rouge, La.

Grounds for relief—Market competition and rate relationship.

Tariff—Supplement 177 to Illinois Freight Association, agent, tariff ICC 1044. Rates are published to become effective on July 5, 1971.

FSA No. 42217—*Beet or cane sugar to Austin and Minneapolis, Minn.* Filed by Western Trunk Line Committee, agent (No. A-2642), for interested rail carriers. Rates on sugar, beet or cane, dry, in bulk, in carloads, as described in the application, from points in Montana, transcontinental and western trunkline territories, to Austin and Minneapolis, Minn.

Grounds for relief—Market competition and return movement of commodities.

Tariffs—Supplement 112 to Western Trunk Line Committee, agent, tariff ICC A-4481, and three other schedules named in the application. Rates are published to become effective on July 2, 1971.

FSA No. 42218—*Cotton to Rosman, N.C.* Filed by Southwestern Freight Bureau, agent (No. B-240), for interested rail carriers. Rates on cotton, cotton linters, and cottonseed hull fiber or shavings, in carloads, as described in the application, from points in southwestern territory and Kansas, to Rosman, N.C.

Grounds for relief—Market competition and rate relationship.

Tariff—Supplement 169 to Southwestern Freight Bureau, agent, tariff ICC 4576. Rates are published to become effective on July 8, 1971.

By the Commission.

[SEAL] ROBERT L. OSWALD,  
Secretary.

[FR Doc. 71-7956 Filed 6-7-71; 8:47 am]

[Notice 306]

### MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JUNE 1, 1971.

The following are notices of filing of applications for temporary authority under section 210(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 21455 (Sub-No. 21 TA), filed May 21, 1971. Applicant: GENE MITCHELL CO. (Iowa-Corp), 1106 Division Street, West Liberty, IA 52776. Applicant's representative: Kenneth F. Dudley, 611 Church Street, Post Office Box 279, Ottumwa, IA 52501. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Materials, equipment, supplies, and furnishings*, used in the manufacture, processing, sale, and distribution of Mobile Homes and Modular Houses, from points in Illinois, Indiana, Michigan, Ohio, and Wisconsin to Kalona, Iowa,

for 180 days. Supporting shipper: Kational Industries, Inc., Post Office Drawer V, Kalona, IA 55247. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 322 Federal Building, Davenport, Iowa 52801.

No. MC 85465 (Sub-No. 37 TA), filed May 19, 1971. Applicant: WEST NEBRASKA EXPRESS, INC., Post Office Drawer 952, Fifth Avenue and Fifth Street, Scottsbluff, NE 69361. Applicant's representative: W. A. Bottom (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products* (except commodities in bulk, in tank vehicles), from Scottsbluff, Nebr., to points in Alabama, Arkansas, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia, and the plantsite and warehouse facility of Geo. A. Hormel & Co., at New Orleans, La., for 150 days. Supporting shipper: Christopher Thissen, Geo. A. Hormel & Co., Post Office Box 800, Austin, MN 55912. Send protests to: Max H. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 320 Federal Building and U.S. Courthouse, Lincoln, Nebr. 68508.

No. MC 102616 (Sub-No. 859 TA), filed May 23, 1971. Applicant: COASTAL TANK LINES, INC., 215 East Waterloo Road, Post Office Box 7211, Akron, OH 44319. Applicant's representative: James Annand (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products, gasoline, and fuel oils*, in bulk, and tank vehicles, from the plantsite of Sun Oil Co., Henderson County, Ky., to points in Indiana, for 180 days. Supporting shipper: Sun Oil Co., 1819 Woodville Road, Post Office Box 920, Toledo, OH 43601. Send protests to: District Supervisor Baccei, Bureau of Operations, Interstate Commerce Commission, 181 Federal Office Building, 1240 East Ninth Street, Cleveland, OH 44199.

No. MC 108393 (Sub-No. 47 TA), filed May 21, 1971. Applicant: SIGNAL DELIVERY SERVICE, INC., 930 North York Road, Room 214, Hinsdale, IL 60521. Applicant's representative: Eugene L. Cohn, 1 North La Salle Street, Suite 2255, Chicago, IL 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Parts of electrical and gas appliances, and equipment, materials, and supplies* used in the manufacture distribution and repair of electrical and gas appliances, for the account of Whirlpool Corp., between Carol Stream, Ill., Columbus, Ind., Charlotte, Mayville, and South Haven, Mich., on the one hand, and, on the other, Clyde, Ohio, for 180 days. Supporting shipper: Carl R. Anderson, Director of Corporate Traffic, Whirlpool Corp., Benton Harbor, Mich. 49022. Send protests to: William J. Gray, Jr., District Supervisor, Bureau of Operations, Inter-

state Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 113024 (Sub-No. 111 TA), filed May 20, 1971. Applicant: ARLINGTON J. WILLIAMS, INC., Rural Delivery No. 2, South Dupont Highway, Smyrna, Del. 19977. Applicant's representative: Samuel W. Earnshaw, 833 Washington Building, Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Clay*, in bags, from Jefferson, Ga., Bath, and Aiken, S.C., to Wilmington, Del., the above to be performed, under a continuing contract, or contract with Electric Hose & Rubber Co., Wilmington, Del., for 180 days. Supporting shipper: F. H. Evick, Traffic Manager, Post Office Box 910, Wilmington, DE 19899. Send protests to: Paul J. Lowry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 227 Old Post Office Building, Salisbury, Md. 21801.

No. MC 113678 (Sub-No. 427 TA), filed May 24, 1971. Applicant: CURTIS, INC. (office address: 4810 Pontiac Street, Commerce City, CO 80022), Post Office Box 16004, Stockyard Station, Denver, CO 80216. Applicant's representative: David L. Metzler (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Textile, textile products, floor coverings, and bath mats*, from points in North Carolina, and Georgia to points in Nevada, Idaho, Utah, Montana, Texas, Tennessee, Washington, Arizona, Wyoming, Colorado, New Mexico, and Kansas, for 180 days. Supporting shippers: There are approximately 23 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, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, Denver, Colo. 80202.

No. MC 114632 (Sub-No. 43 TA), filed May 20, 1971. Applicant: APPLE LINES, INC., Post Office Box 507, 225 South Van Eps Avenue, Madison, SD 57042. Applicant's representative: Robert A. Appewick (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and packinghouse products*, as set forth in sections A and C *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite of Tama Corp. at Tama, Iowa, to points in Illinois, Indiana, Nebraska, Minnesota, Missouri, and Wisconsin, for 180 days. Supporting shipper: Tama Corp., Tama, Iowa 52339, Fred Shover, President. Send protests to: J. L. Hammon, District Supervisor, Bureau of Operations, Interstate Com-

merce Commission, Room 369, Federal Building, Pierre, S. Dak. 57501.

No. MC 114632 (Sub-No. 45 TA), filed May 26, 1971. Applicant: APPLE LINES, INC., Post Office Box 507, 225 South Van Eps Avenue, Madison, SD 57042. Applicant's representative: Robert A. Appewick (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Chicago Heights, Ill., and Peoria, Ill., to points in Iowa, Minnesota, Nebraska, North Dakota, and South Dakota, for 180 days. Supporting shipper: Keystone Steel & Wire Division, Keystone Consolidated Industries, Inc., Peoria, Ill. Carl N. M. Brown, Manager, Traffic and Distribution Planning. Send protests to: J. L. Hammon, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Building, Pierre, S. Dak. 57501.

No. MC 117565 (Sub-No. 39 TA), filed May 26, 1971. Applicant: MOTOR SERVICE COMPANY, INC., 237 South Fifth Street, Post Office Box 417, Coshocton, OH 43812. Applicant's representative: Hala Hafner (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor homes*, in truck away service, from Portsmouth, R.I., to points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper: Gruman Allied Industries, Inc., 600 Old Country Road, Garden City, NY 11530. Send protests to: A. M. Culver, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 255 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, OH 43215.

No. MC 118318 (Sub-No. 22 TA), filed May 24, 1971. Applicant: IDA-CAL FREIGHT LINES, INC., 1798 Floral Avenue, Post Office Box 422, Twin Falls, ID 83301. Applicant's representative: Kenneth G. Bergquist, Post Office Box 1775, Boise, ID 83702. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat and meat products* as described in section A, appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Wallula, Wash., to points in California, for 150 days. NOTE: Applicant does not intend to tack or interline authority herein applied for. Supporting shipper: Cudahy Co., Wallula, Wash. 99363. Send protests to: C. W. Campbell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 455 Federal Building and U.S. Courthouse, 550 West Fort Street, Boise, ID 83702.

No. MC 119789 (Sub-No. 67 TA), filed May 20, 1971. Applicant: CARAVAN REFRIGERATED CARGO, INC., Post Office Box 6188, Dallas, TX 75222. Applicant's representative: James T. Moore (same address as above). Authority

sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix 1 *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 from Plainview, Tex., to points in New York, New Jersey, Rhode Island, Massachusetts, Maryland, Pennsylvania, Virginia, Delaware, West Virginia, District of Columbia, Maine, Vermont, and New Hampshire, for 180 days. **NOTE:** Carrier does not intend to tack authority. Supporting shipper: Missouri Beef Packers, Inc., Amarillo, Tex.; Send protests to: District Supervisor E. K. Willis, Jr., Interstate Commerce Commission, Bureau of Operations, 1100 Commerce Street, Room 13012, Dallas, TX 75202.

No. MC 119944 (Sub-No. 12 TA), filed May 26, 1971. Applicant: BROCKWAY FAST MOTOR FREIGHT, INC., 568 Central Avenue, Somerville, NJ 08876. Applicant's representative: Morton E. Kiel, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Adipic acid*, dry in bulk, from Somerville, N.J., to Chestertown, Md., for 180 days. Supporting shipper: Monsanto Co., 800 North Lindbergh Boulevard, St. Louis, MO 63166. Send protests to: District Supervisor Robert S. H. Vance, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

No. MC 123420 (Sub-No. 3 TA), filed May 24, 1971. Applicant: ALBERT L. DERBY, Post Office Box 56, Whitewood, SD 57793. Applicant's representative: Keith R. Smit, Post Office Box 29, Sturgis, SD 57785. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fiber products, consisting of wood chips, sawdust, ground wood products and byproducts of the lumbering industry comprised of the above referred to and other residue from logging and lumbering*, from a point near Whitewood, S. Dak., to points in Colorado, Montana, North Dakota, Nebraska, South Dakota, and Wyoming, for 180 days. Supporting shipper: Franz & Werlinger Fiber Products, Whitewood, S. Dak. 57793, Edwin Franz, partner. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Building, Pierre, S. Dak. 57501.

No. MC 127812 (Sub-No. 13 TA), filed May 20, 1971. Applicant: TYSON TRUCK LINES, INC., 185 Fifth Avenue SW., New Brighton, MN 55112. Applicant's representative: Richard L. Tyson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, dairy products and articles distributed by meat packinghouses* (except hides and commodities in bulk),

from Eau Claire, Wis., to Minneapolis, Minn., for 180 days. Supporting shipper: Schweigert, Food Service Division, Minneapolis, Minn. Send protest to: District Supervisor E. C. Sjogren, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 129336 (Sub-No. 1 TA), filed May 26, 1971. Applicant: CEMENT CARTAGE CO., LTD., Butternut Ridge, Havelock, New Brunswick, Canada. Applicant's representative: Eric B. Appleby, Box 302, 259 Brunswick Street, Fredericton, NB, Canada. Authority sought to operate as a *contract carrier*, by motor vehicle, over regular routes, transporting: *Quicklime*, in bulk in tank-type vehicles, from the international boundary between the United States and Canada at Calais, Maine, to Woodland, Maine, a distance of 10 miles, and return, for 180 days. Supporting shipper: Havelock Processing Ltd., Havelock, New Brunswick, Canada. Send protests to: District Supervisor Donald G. Weller, Interstate Commerce Commission, Bureau of Operations, Room 307, 76 Pearl Street, Post Office Box 167, PSS, Portland, ME 04112.

No. MC 129537 (Sub-No. 9 TA), filed May 24, 1971. Applicant: REEVES TRANSPORTATION COMPANY, Route 5, Pond Road (Route 5, Dews Pond Road), Calhoun, GA 30701. Applicant's representative: John C. Vogt, Jr., 707 Florida Avenue, Post Office Box 21, Tampa, FL 33601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpets and rugs*, from points in Floyd, Bartow, Chattooga, Gordon, Whitfield, Murray, Catoosa, Walker, Troup, and Muscogee Counties, Ga., to points in Duval County, Fla., for 180 days. **NOTE:** Applicant does not intend to tack the authority. Applicant will interline the authority at Jacksonville, Fla. Supporting Shippers: There are approximately 16 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: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, GA 30300.

No. MC 133240 (Sub-No. 20 TA), filed May 23, 1971. Applicant: WEST END TRUCKING CO., INC., 530 Duncan Avenue, Jersey City, NJ 07306. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in or used by discount or department stores*, between the facilities of Holly Stores, Inc., located in New York, N.Y., Secaucus and North Bergen, N.J., on the one hand, and on the other, Atlanta, Ga., and Wilson, N.C., for 150 days. Supporting shipper: Holly Stores,

Inc., 550 West 59th Street, New York, NY 10019. Send protests to: District Supervisor Robert E. Johnston, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

No. MC 133779 (Sub-No. 4 TA), filed May 24, 1971. Applicant: FUNDIS COMPANY, Broadway at Cornell Street, Lovelock, NV 89419. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Diatomaceous earth* (diatomite), *mixture of diatomaceous earth and alkyl naphthalene and sodium sulfonate*, and *wood pulp*; except in bulk, from Clark Station, Nev., and Colorado, Nev., to points in Arizona, Idaho, Oregon, Utah, and Washington, for 180 days. **NOTE:** Applicant does not intend to tack or interline. Supporting shipper: Eagle-Picher Industries, Inc., Post Office Box 1869, Reno, NV 89505. Send protests to: Daniel Augustine, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 203 Federal Building, 705 North Plaza Street, Carson City, NV 89701.

No. MC 134367 (Sub-No. 3 TA), filed May 26, 1971. Applicant: VAN WINKLE TRUCKING, INC., 1040 Troy-Schenectady Road, Latham, NY 12110. Applicant's representative: Donald C. Carmien, Suite 500 O'Neill Building, Binghamton, N.Y. 13901. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except household goods, commodities in bulk classes A and B explosives, as defined by the Commission, between Bradley Field, Windsor Locks, Conn., on the one hand, and on the other, points in Albany, Schenectady, Saratoga, Warren, Fulton, Montgomery, Rensselaer, and Washington Counties, N.Y., restricted to prior or subsequent movement by air, for 150 days. Supporting shippers: Mohawk Brush Co., Post Office Box 1839, Albany, NY; Tek-hughes, 2320 Sixth Street, Watervliet, NY; Ross Value Manufacturing Co., Inc., 6 Oakwood Avenue Troy, NY; Marshall Ray Corp., Troy, NY 12181; Wits Air Cargo Service, Box 3805, Seattle, WA 98134; General Electric Co., Waterford, NY 12188; Cohoes Carrybag Co., Cohoes, NY 12047; Tele-dyne Gurley, 514 Fulton Street, Troy, NY 12181. Send protests to: Charles F. Jacobs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Building, Albany N.Y. 12207.

No. MC 134599 (Sub-No. 19 TA), filed May 23, 1971. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, 12060 Sable Boulevard, Brighton, CO 80601, Post Office Box 16407, Stockyard Station, Denver, CO 80216. Applicant's representative: Oscar Mandel (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from Muskegon, Mich., and its commercial zone, to points in Washington, Ore-

gon, Idaho, California, Nevada, Arizona, Utah, Colorado, New Mexico, Kansas, and Missouri (except St. Louis, Mo.) for 180 days. Supporting shipper: S. D. Warren Co., a division of Scott Paper Co., 2400 Lake Shore Drive, Muskegon, MI 49443. Send protests to: District Supervisor Roger L. Buchanan, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, Denver, Colo. 80202.

No. MC 134758 (Sub-No. 1 TA), filed May 23, 1971. Applicant: DONALD MASON PHIFER, 326 Clairmont Circle, Greenville, NC 27834. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Sand*, from Como, N.C., to Suffolk, Va., and (2) *Plant-mix asphalt*, from Suffolk, Va., to points in Gates and Pasquotank Counties, N.C., for 180 days. Supporting shipper: Birsch Construction Corp., Post Office Box 12479, Norfolk, VA 23502. Send protests to: Archie W. Andrews, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Post Office Box 26896, Raleigh, NC 27611.

No. MC 135183 (Sub-No. 3 TA), filed May 24, 1971. Applicant: KERR CONTRACT CARRIAGE, INC., Route 3, Salem, Mo. 65560. 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: (1) *Charcoal, charcoal briquettes, and associated barbecue items*, from the plantsite of Floyd Charcoal Co., near Salem, Mo., to points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Michigan, Mississippi, Ohio, Oklahoma, Wisconsin, Pennsylvania, Texas, Virginia, and Tennessee; and (2) *cornstarch*, from Paris, Ill.; and (3) *Paper bags*, from Savannah, Ga., and West Monroe, La., to the plantsite of Floyd Charcoal Co. near Salem, Mo., for 180 days. Supporting shipper: Floyd Charcoal Co., Salem, Mo. 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 135394 (Sub-No. 1 TA) (Correction), filed April 26, 1971, published FEDERAL REGISTER issue May 1, 1971, corrected, and republished in part as corrected this issue. Applicant: RETAIL DELIVERY SERVICE, INC., 382 McLean Boulevard, Paterson, NJ 07513. Applicant's representative: Anthony C. Vance, 1111 E Street NW., Washington, DC 20004. NOTE: The purpose of this partial republication is to include 2 additional supporting shippers: Lederle Laboratories, Pearl River, N.Y.; Lennox Wallpaper Corp., 402 West 25th Street, New York, NY, which was inadvertently omitted in previous publication. The rest of the application remains the same.

No. MC 135611 (Sub-No. 1 TA), filed May 23, 1971. Applicant: ROBERT A. WALKER AND DONALD M. WHITTED, a co-partnership, doing business as

WALKER & WHITTED TRANSPORTATION, 320 North Eighth Street, Brawley, CA 92227. Applicant's representative: Carl H. Fritze, 1545 Wilshire Boulevard, Los Angeles, CA 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed supplements*, liquid, in bulk, from Imperial, Calif., to points in Arizona, for 180 days. Supporting shipper: International Minerals & Chemicals Corp., Animal Health and Nutrition Division, Western Operations, Post Office Box 788, Bellflower, CA 90706. Send protests to: Philip Yallowitz, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 7708, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 135613 TA, filed May 19, 1971. Applicant: ALAN D. BIRKS, doing business as AL BIRK'S BOAT HAULING, 3322 Northeast 162d Avenue, Portland, OR 97230. Applicant's representative: Alan D. Birks (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Boats*, not exceeding 36 feet in length, between Portland, Ore., and Olympia, Wash., for 180 days. Supporting shippers: Ray F. Anderson, 4879 Southeast 52d, Portland OR 97206; Paul E. Kambly, 1755 East 19th, Eugene, OR 97403; J. E. Richards, 1901 Southeast Minter Bridge Road, Hillsboro, OR 97123; Vernon S. Sprague, University of Oregon, School of Health, Physical Education, and Recreation, Eugene, Ore. 97403; George de Lange, 3750 Southeast 162d Avenue, Portland, OR 97236; A. V. De Burh, 5008 Northeast 39th Avenue, Vancouver, WA 98661; Roy A. Zorn, 3333 Northeast Marine Drive, Portland, OR 97211; D. Fancher, 16 East Powell, Gresham, OR 97030; Zeldon E. Carpenter, 18304 Northeast Everett, Portland, OR 97230; Cliff Andruss, 3333 Northeast Marine Drive, Portland, OR 97211, and Louis H. Riedel, 1820 Northeast Hogan Drive, Gresham, OR 97030. Send protests to: District Supervisor W. J. Huettig, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, 319 Southwest Pine Street, Portland, OR 97204.

No. MC 135618 TA, filed May 20, 1971. Applicant: BILL PAYNE, doing business as BILL PAYNE TRUCKING COMPANY, Highway 14 East, Huron, S. Dak. 57350. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Beer*, in bottles, cans, and barrels, (1) from Milwaukee, Wis., Omaha, Nebr., St. Louis, Mo., and St. Paul, Minn., to Huron, S. Dak., and (2) from Milwaukee, Wis., and St. Paul, Minn., to Redfield, S. Dak., and (3) from Omaha, Nebr., and Milwaukee, Wis., to Mitchell, S. Dak., for 180 days. Supporting shippers: Dale Porter, doing business as Porter Distributing Co., 215 Market Road SW., Huron, SD; H. E. Rohrabough, doing business as Royal Distributing Co., 760 Third Street NW., Huron, SD 57350; Charles (Buzz) See-

man, doing business as, Standard Distributing Co., 542 Nevada SW., Huron, SD 57350; Chet Schoenfeld, doing business as, Redfield, S. Dak. 57469. Send protests to: J. L. Hammond, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 369, Federal Building, Pierre, S. Dak. 57501.

No. MC 135625 TA, filed May 23, 1971. Applicant: LOUIS OFSHINSKY, 894 Boulevard, Bayonne, NJ 07002. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Ships stores, equipment, and supplies* (except commodities in bulk), for the account of L. F. Gaubert & Co., Inc., from Avenel, Bayonne, Hamburg, N.J., Albany, Chester, New York City, Rome, N.Y., and Mechanicsburg, Pa., to Mobile and Montgomery, Ala., New Orleans, La., and Houston, Tex., for 150 days. Supporting shipper: L. F. Gaubert & Co., Inc., 700 South Broad Street, New Orleans, LA 70150. Send protests to: District Supervisor Robert E. Johnston, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

By the Commission.

[SEAL] ROBERT L. OSWALD,  
Secretary.

[FR Doc.71-7957 Filed 6-7-71;8:47 am]

## CONTRACT TRANSPORTATION, INC., ET AL.

### Assignment of Hearings

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 134022 Sub 2, Contract Transportation, Inc., assigned June 14, 1971, at Milwaukee, Wis., postponed indefinitely.

MC-F-10574, Atlas Transit, Inc.—Purchase (Portion)—Arkansas Traveler, Inc., and MC-99695, Sub 4, Atlas Transit, Inc., now assigned June 16, 1971, at Memphis, canceled and reassigned to June 16, 1971, at Judge Harris Courtroom, 436 U.S. Post Office and Courthouse Building, Fifth and Gaines Streets, Little Rock, AR.

MC-F-11189, All-American Transport, Inc., assigned June 14, 1971, at the Hilton Hotel, 1616 Dodge Street, Omaha, NE.

MC-99695 Sub 6, Atlas Transit, Inc., now assigned June 14, 1971, at Memphis, canceled and reassigned to June 14, 1971, at Judge Harris Courtroom, 436 U.S. Post Office and Courthouse Building, Fifth and Gaines Streets, Little Rock, AR.

I & S No. 8611, Transit Charges on Grain & Products, at Chicago, Ill., now assigned June 23, 1971, is canceled. The rates are being canceled.  
 MC-118288 Sub 38, Stephen F. Frost, assigned June 17, 1971, at Billings, Mont., hearing canceled and application dismissed.  
 MC-107107 Sub 403, Alterman Transport Lines, Inc., assigned for continued hearing at the Offices of the Interstate Commerce Commission, Washington, D.C. on July 9, 1971.

MC-119689, Brown Brothers Express, Inc. (Peerless Transport Corp.), assigned for continued hearing at the Offices of Interstate Commerce Commission, Washington, D.C. on July 7, 1971.  
 MC-119689 Sub 11, Peerless Transport Corp., assigned for continued hearing at the Offices of Interstate Commerce Commission, Washington, D.C. on July 7, 1971.  
 MC-51146 Sub 179, Schneider Transport & Storage, Inc., hearing canceled and appli-

cation dismissed, assigned June 24, 1971, at Chicago, Ill.

MC-107295 Sub 375, Pre-Fab Transit Co., assigned June 21, 1971, Dallas, Tex., postponed indefinitely.

[SEAL] ROBERT L. OSWALD,  
 Secretary.

[FR Doc.71-7055 Filed 6-7-71;8:47 am]

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