* * * * * * * * * * *

(c) * * *

(1) * * *

(ii) * * *

Name of Disc	*Content of antibiotic in micrograms or units per disc*
Tobraycin dis m/c	10 mcg. tobramycin.

* * * * * * * * * * *

(2) * * *

E. Interpretation of zone sizes

* * * * * * * * * * *

Antibiotic	Disc content	Diameter (millimeters) of zone of inhibition		
		Resistant	Intermediate	Susceptible
* * *	* * *	* * *	* * *	* * *
Tobramycin	10 mcg	11 or less	12–13	14 or more.
* * *	* * *	* * *	* * *	* * *

F. Reference organisms

* * * * * * * * * * *

Antibiotic	Disc content	Individual tests		
		Zone diameter in millimeters		Permitted millimeter difference ATCC 25923–ATCC 25922
		With *S. aureus* ATCC 25923 [1]	With *E. coli* ATCC 25922 [1]	
* * *	* * *	* * *	* * *	* * *
Tobramycin	10 mcg	19–29	18–26	
* * *	* * *	* * *	* * *	* * *

* * * * * * * * * * *

[1] Available from: American Type Culture Collection, 12301 Parklawn Dr., Rockville, Md. 20852.

2. Section 460.6 is amended in paragraphs (c) (3) and (d) by alphabetically inserting a new item in the tables, and by revising paragraph (e) (1) to read as follows:

§ 460.6 Tests and methods of assay for potency of antibiotic susceptibility discs.

* * * * * * * * * * *

(c) * * *

(3) * * *

Antibiotic	Volume of suspension added to each 100 ml of seed agar used for test	Suspension number	Medium	
			Base layer	Seed layer
* * *	* * *	* * *	* * *	* * *
Tobramycin	0.5	3 C	C	
* * *	* * *	* * *	* * *	* * *

(d) * * *

Antibiotic	Solvent	Standard curve (antibiotic concentration per disc)
* * *	* * *	* * *
Tobramycin	Water	5, 10, and 20 μg.
* * *	* * *	* * *

* * * * * * * * * * *

(e) *Assay*—(1) *Individual discs one-fourth inch in diameter*—(i) *Standard curves with five antibiotic concentrations.* On each of five plates prepared as directed in paragraph (c) of this section, place the five control discs for the standard curve and two discs from each batch to be tested. The control discs for the standard curve and the sample discs are placed on the plates in a random arrangement, with no discs being closer than 24 millimeters (on centers) to another disc. Discs are placed on the plates with the aid of forceps within as short a period of time as possible (not to exceed 3 minutes per plate) and tapped gently to ensure an even seal. Incubate the plates overnight at 32° C to 35° C, except if it is cephalothin, colistin, novobiocin, polymyxin, or viomycin, the incubation temperature is 37° C. After incubation, measure the diameter of each circle of inhibition, using calipers or a measuring device of comparable accuracy. Average the three zone sizes for each of the five standard-curve concentrations and plot the mean sizes on the arithmetic scale of semilogarithmic graph paper with the antibiotic concentrations on the logarithmic scale. Use the following equation to calculate the best straight line:

$$L=\frac{3a+2b+c-e}{5},$$

$$H=\frac{3e+2d+c-a}{5},$$

where:

L = the calculated zone size of the low concentration;

H = the calculated zone size of the high concentration;

a, b, c, d, e = the observed average zone sizes for each respective concentration, a being that for the lowest concentration.

Plot the values obtained for L and H and connect these two points with a straight line. Average the six sample zone sizes and read the corresponding antibiotic concentration of this mean from the standard curve. This is the potency obtained for a single assay. Perform two or more replicate assays on each of 2 days. The average of all assays is the potency of the sample disc.

(ii) *Standard curves with three antibiotic concentrations.* On each of three plates prepared as directed in paragraph (c) of this section, place the three control discs for the standard curve and two discs from each batch to be tested. The control discs for the standard curve and the sample discs are placed on the plates in a random arrangement, with no discs being closer than 24 millimeters (on centers) to any other disc. Discs are placed on the plates with the aid of forceps within as short a period of time as possible (not to exceed 3 minutes per plate) and tapped gently to ensure an even seal. Incubate the plates overnight at 32° C to 35° C. After incubation, measure the diameter of each circle of inhibition, using calipers or a measuring device of comparable accuracy. Average the three zone sizes for each of the three standard curve concentrations and plot the mean sizes on the arithmetic scale of semilogarithmic graph paper with the antibiotic concentrations on the logarithmic scale. Using the following equation to calculate the best straight line:

$$L=\frac{5a+2b-c}{6},$$

$$H=\frac{5c+2b-a}{6},$$

where:

L = calculated zone diameter of the lowest concentration of the standard curve;

H = calculated zone diameter of the highest concentration of the standard curve;

a, b, c = observed average zone sizes for each respective concentration, a being that for the lowest concentration.

Plot the values obtained for L and H and connect these two points with a straight line. Average the six sample zone sizes and read the corresponding antibiotic concentration of this mean from the standard curve. This is the potency obtained for a single assay. Perform two or more replicate assays on each of 2 days. The average of all assays is the potency of the sample disc.

* * * * * * * * * * *

Since the conditions prerequisite to providing for certification of the subject antibiotic drug have been complied with and since the matter is noncontroversial in nature, notice and public procedures are not prerequisites to this promulgation.

Effective date. This order shall become effective February 17, 1976.

(Sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357).)

Dated: January 28, 1976.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.76-4410 Filed 2-13-76;8:45 am]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER G—ENGINEERING AND TRAFFIC OPERATIONS

PART 658—VEHICLE SIZE AND WEIGHT ENFORCEMENT

State Certification

● The purpose of this document is to amend 23 CFR 658.9 by adopting the amendment proposed in a notice of proposed rulemaking published in the FEDERAL REGISTER (40 FR 54812) on November 26, 1975. 23 CFR 658.9 pertains to annual State certifications of vehicle size and weight enforcement on all Federal-aid highways, as required by 23 U.S.C. 141. ●

The basic thrust of this amendment is to consolidate and simplify certain of the certification requirements, and to add the the category of vehicle unloadings to the present requirement of reporting State remedial actions.

The sole comment on the proposed amendment was offered by the State of Ohio by the Director of its Department of Transportation. Ohio notes that its Highway Patrol records do not separate weight from size violations, the latter being minimal. It also suggests that separate reporting of unloading or load shifting on vehicles would be burdensome, since Ohio requires these measures incident to every overweight arrest, whether for gross or axle load.

The requirement of reporting both weight and size violations was not generated by the existing or proposed rule, but by the underlying statute, 23 U.S.C. 141, which requires State certification of size and weight enforcement. The Federal Highway Administration recognizes that the problem of oversize is a numerically small one, since most vehicles are built to a certain nonexpandable size. Usually, it is a load which extends outside of the vehicle that provokes an arrest. Where a State is unable to certify, through logs or similar exact records, the precise number of such apprehensions, a well-founded estimate by the State officer responsible for this area of enforcement will suffice until State reports can be modified.

Where a State, like Ohio, requires either unloading of the whole vehicle for gross weight violations, or shifting of the load for axle weight violations, in the case of every overweight apprehension, no additional reporting is required. A simple statement in the certificate that unloading or load shifting was required in all such cases will suffice for Federal purposes. Distinction need not be made between gross and axle violation unloading or load shifts since the term "unloading" is broad enough to cover both.

For the foregoing reasons, the proposed rule amending 23 CFR 658.9(b) is hereby adopted without change as set forth below.

(Sec. 106, 114, P.L. 93-643, 80 Stat. 2281; 23 U.S.C. 127, 154, 315; delegation at 49 CFR 1.48)

EFFECTIVE DATE: This amendment becomes effective on February 17, 1976.

NORBERT T. TIEMANN,
Federal Highway Administrator.

Section 658.9 is amended by revising paragraph (b) as follows:

§ 658.9 Certification of size and weight enforcement.

* * * * *

(b) A statement by the Governor of the State, or an official designated by the Governor, that all size and weight limits are being enforced on the Federal-aid primary, urban, and secondary systems, including the Interstate System. The statement shall include the following information relating to enforcement along the Federal-aid highway systems during the 12-month period ending on the September 30 before the date by which certification is required:

(1) A copy of any State law or regulation pertaining to vehicle sizes and weights adopted since the State's last certification;

(2) [Reserved]

(3) The number of fixed scales operated by the State;

(4) The number of portable scales operated by the State;

(5) The number of vehicles weighed or measured, respectively;

(6) [Reserved]

(7) The separate numbers of citations, assessments, unloadings, or arrests, for size and for weight violations respectively; and

(8) The numbers of State oversize and overweight permits issued, respectively, classified according to the duration of their effectiveness.

[FR Doc.76-4389 Filed 2-13-76;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 7400]

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

Disposition of Qualified Low-Income Housing

Correction

In FR Doc. 76-3348, appearing at page 5100 in the issue for Wednesday, February 4, 1976, make the following changes:

1. In the second column, page 5101, in § 1.1250.3(h)(2), delete "[(h)(1)(i)]." in the second and fourth lines.

2. In § 1.1250.3(h)(3), example (3), first column page 5102, should read as set forth below:

Example (3). The facts are the same as in example (2) except that the cost of the replacement section 1250 property is $4,500,000 and the cost of the other property is $1,000,000. Thus, the replacement section 1250 properly consists of two elements under section 1250(d)(8)(E). The reinvestment element (section 1250(d)(8)(E)(1)) has a basis of $3,000,000, that is, $4,000,000 (that portion of the section 1250 property acquired the cost of which does not exceed the net amount realized attributable to the section 1250 property disposed of), reduced by $1,000,000 (the gain not recognized attributable to the section 1250 property disposed of). The basis of the other property is $800,000, that is, its cost ($1,000,000) reduced by the remaining gain not recognized ($200,000). The additional cost element (section 1250(d)(8)(E)(ii)) has a basis of $500,000, that is, the portion of the section 1250 property acquired the cost of which exceeds the net amount realized attributable to the section 1250 properly disposed of. This amount ($500,000) is not reduced by any amount of gain not recognized because all of the gain not recognized has already been taken into account in determining the basis of the reinvestment element and the other replacement property that is not section 1250 property.

SUBCHAPTER A—INCOME TAX

[T.D. 7406]

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

Medical Research Organizations

By a notice of proposed rulemaking appearing in the FEDERAL REGISTER for May 22, 1971 (33 FR 9298) amendments to the Income Tax Regulations (26 CFR Part 1) were proposed in order to define certain medical research organizations under section 170(b)(1)(A)(iii) of the Internal Revenue Code of 1954. A public hearing was held with respect to such proposed notice of rulemaking on June 28, 1971. After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, certain changes were made, and the proposed amendments of the regulations, subject to the changes, are adopted by this document.

Section 170(b)(1)(A) describes charitable organizations of a public nature contributions to which generally may be deducted to the extent of 50 percent of an individual donor's income, as compared to 20 percent in the case of certain nonoperating private charities. Section 170(b)(1)(A)(iii) includes in this group of public charities, those organizations which are medical research organizations directly engaged in the continuous active conduct of medical research in conjunction with a hospital, and which are committed to expend such contributions before January 1 of the fifth calendar year which begins after the date the contribution is made.

These regulations require that an organization be itself engaged in the active conduct of medical research rather than merely disbursing funds to other organizations. In order for an organization to be primarily engaged in the continuous active conduct of medical research, it must be expending a significant percentage of its endowment for, or have devoted a substantial part of its assets to, such conduct.

Generally, these regulations expand upon the provisions of the notice of proposed rule making. Specific rules with respect to the definition of "continuous active conduct of medical research" are clarified and amended, and certain rules with respect to operating requirements are added.

ADOPTION OF AMENDMENT TO THE REGULATIONS

In view of the foregoing, the Income Tax Regulations (26 CFR Part 1) are amended as follows:

Immediately after § 1.170A-9(c)(1) insert the following subparagraph:

§ 1.170A-N Definition of section 170 (b)(1)(A) Organization.

* * * * *

(c) * * *

(2) *Certain medical research organizations*—(i) *Introduction.* A medical research organization is described in section 170(b)(1)(A)(iii) if the principal purpose or functions of such organization are medical research and if it is directly engaged in the continuous active conduct of medical research in conjunction with a hospital. In addition, for purposes of the 50 percent limitation of section 170(b)(1)(A) with respect to a contribution, during the calendar year in which the contribution is made such organization must be committed to spend such contribution for such research before January 1 of the fifth calendar year which begins after the date such contribution is made. An organization need not receive contributions deductible under section 170 to qualify as a medical research organization and such organization need not be committed to spend amounts to which the limitation of section 170(b)(1)(A) does not apply within the 5-year period referred to in this subdivision. However, the requirement of continuous active conduct of medical research indicates that the type of organization contemplated in this subparagraph is one which is primarily engaged directly in the continuous active conduct of medical research, as compared to an inactive medical research organization or an organization primarily engaged in funding the programs of other medical research organizations. As in the case of a hospital, since an organization is ordinarily not described in section 170(b)(1)(A)(iii) as a hospital unless it functions primarily as a hospital, similarly a medical research organization is not so described unless it is primarily engaged directly in the continuous active conduct of medical research in conjunction with a hospital. Accordingly, the rules of this subparagraph shall only apply with respect to such medical research organizations.

(ii) *General rule.* An organization (other than a hospital described in subparagraph (1) of this paragraph) is described in section 170(b)(1)(A)(iii) only if within the meaning of this subparagraph:

(*a*) The principal purpose or functions of such organization are to engage primarily in the conduct of medical research, and

(*b*) It is primarily engaged directly in the continuous active conduct of medical research in conjunction with a hospital which is (*1*) described in section 501(c)(3), (*2*) a federal hospital, or (*3*) an instrumentality of a governmental unit referred to in section 170(c)(1).

However, in order for a contribution to such organization to qualify for purposes of the 50 percent limitation of section 170(b)(1)(A), during the calendar year in which such contribution is made or treated as made, such organization must be committed (within the meaning of subdivision (viii) of this subparagraph) to spend such contribution for such active conduct of medical research before January 1 of the fifth calendar year beginning after the date such contribution is made. For the meaning of the term "medical research" see subdivision (iii) of this subparagraph. For the meaning of the term "principal purpose or functions" see subdivision (iv) of this subparagraph. For the meaning of the term "primarily engaged directly in the continuous active conduct of medical research" see subdivision (v) of this subparagraph. For the meaning of the term "medical research in conjunction with a hospital" see subdivision (vii) of this subparagraph.

(iii) *Definition of medical research.* Medical research means the conduct of investigations, experiments, and studies to discover, develop, or verify knowledge relating to the causes, diagnosis, treatment, prevention, or control of physical or mental diseases and impairments of man. To qualify as a medical research organization, the organization must have or must have continuously available for its regular use the appropriate equipment and professional personnel necessary to carry out its principal function. Medical research encompasses the associated disciplines spanning the biological, social and behavioral sciences. Such disciplines include chemistry (biochemistry, physical chemistry, bioorganic chemistry, etc.), behavioral sciences (psychiatry, physiological psychology, neurophysiology, neurology, neurobiology, and social psychology, etc.), biomedical engineering (applied biophysics, medical physics, and medical electronics, *e.g.*, developing pacemakers and other medically related electrical equipment), virology, immunology, biophysics, cell biology, molecular biology, pharmacology, toxicology, genetics, pathology, physiology, microbiology, parasitology, endocrinology, bacteriology, and epidemiology.

(iv) *Principal purpose or functions.* An organization must be organized for the principal purpose of engaging primarily in the conduct of medical research in order to be an organization meeting the requirements of this subparagraph. An organization will normally be considered to be so organized if it is expressly organized for the purpose of conducting medical research and is actually engaged primarily in the conduct of medical research. Other facts and circumstances, however, may indicate that an organization does not meet the principal purpose requirement of this subdivision even where its governing instrument so expressly provides. An organization that otherwise meets all of the requirements of this subparagraph (including this subdivision) to qualify as a medical research organization will not fail to so qualify solely because its governing instrument does not specifically state that its principal purpose is to conduct medical research.

(v) *Primarily engaged directly in the continuous active conduct of medical research.* (*a*) In order for an organization to be primarily engaged directly in the continuous active conduct of medical research, the organization must either devote a substantial part of its assets to, or expend a significant percentage of its endowment for, such purposes, or both. Whether an organization devotes a substantial part of its assets to, or makes significant expenditures for, such continuous active conduct depends upon the facts and circumstances existing in each specific case. An organization will be treated as devoting a substantial part of its assets to, or expending a significant percentage of its endowment for, such purposes if it meets the appropriate test contained in paragraph (c)(2)(v)(*b*) of this section. If an organization fails to satisfy both of such tests, in evaluating the facts and circumstances, the factor given most weight is the margin by which the organization failed to meet such tests. Some of the other facts and circumstances to be considered in making such a determination are:

(*1*) If the organization fails to satisfy the tests because it failed to properly value its assets or endowment, then upon determination of the improper valuation it devotes additional assets to, or makes additional expenditures for, such purposes, so that it satisfies such tests on an aggregate basis for the prior year in addition to such tests for the current year.

(*2*) The organization acquires new assets or has a significant increase in the value of its securities after it had developed a budget in a prior year based on the assets then owned and the then current values.

(*3*) The organization fails to make expenditures in any given year because of the interrelated aspects of its budget and long-term planning requirements, for example, where an organization prematurely terminates an unsuccessful program and because of long-term planning requirements it will not be able to establish a fully operational replacement program immediately.

(*4*) The organization has as its objective to spend less than a significant percentage in a particular year but make up the difference in the subsequent few years, or to budget a greater percentage earlier year and a lower percentage in in a later year.

(*b*) For purposes of this section, an organization which devotes more than one half of its assets to the continuous active conduct of medical research will be considered to be devoting a substantial part of its assets to such conduct within the meaning of paragraph (c)(2)(v)(*a*) of this section. An organization which expends funds equaling 3.5 percent or more of the fair market value of its endowment for the continuous active conduct of medical research will be

considered to have expended a significant percentage of its endowment for such purposes within the meaning of paragraph (c)(2)(v)(*a*) of this section.

(*c*) Engaging directly in the continuous active conduct of medical research does not include the disbursing of funds to other organizations for the conduct of research by them or the extending of grants or scholarships to others. Therefore, if an organization's primary purpose is to disburse funds to other organizations for the conduct of research by them or to extend grants or scholarships to others, it is not primarily engaged directly in the continuous active conduct of medical research.

(vi) *Special rules.* The following rules shall apply in determining whether a substantial part of an organization's assets are devoted to, or its endowment is expended for, the continuous active conduct of medical research activities:

(*a*) An organization may satisfy the tests of paragraph (c)(2)(v)(*b*) of this section by meeting such tests either for a computation period consisting of the immediately preceding taxable year, or for the computation period consisting of the immediately preceding four taxable years. In addition, for taxable years beginning in 1970, 1971, 1972, 1973, and 1974, if an organization meets such tests for the computation period consisting of the first four taxable years beginning after December 31, 1969, an organization will be treated as meeting such tests, not only for the taxable year beginning in 1974, but also for the preceding four taxable years. Thus, for example, if a calendar year organization failed to satisfy such tests for a computation period consisting of 1969, 1970, 1971, or 1972, but on the basis of a computation period consisting of the years 1970 through 1973, it expended funds equalling 3.5 percent or more of the fair market value of its endowment for the continuous active conduct of medical research, such organization will be considered to have expended a significant percentage of its endowment for such purposes for the taxable years 1970 through 1974. In applying such tests for a four-year computation period, although the organization's expenditures for the entire four-year period shall be aggregated, the fair market value of its endowment for each year shall be summed, even though, in the case of an asset held throughout the four-year period, the fair market value of such an asset will be counted four times. Similarly, the fair market value of an organization's assets for each year of a four-year computation period shall be summed.

(*b*) Any property substantially all the use of which is "substantially related" (within the meaning of section 514(b)(1)(A)) to the exercise or performance of the organization's medical research activities will not be treated as part of its endowment.

(*c*) The valuation of assets must be made with commonly accepted methods of valuation. A method of valuation made in accordance with the principles stated in the regulations under section 2031 constitutes an acceptable method of valuation. Assets may be valued as of any day in the organization's taxable year to which such valuation applies, provided the organization follows a consistent practice of valuing such asset as of such date in all taxable years. For purposes of paragraph (c)(2)(v) of this section, an asset held by the organization for part of a taxable year shall be taken into account by multiplying the fair market value of such asset by a fraction, the numerator of which is the number of days in such taxable year that the foundation held such asset and the denominator of which is the number of days in such taxable year.

(vii) *Medical research in conjunction with a hospital.* The organization need not be formally affiliated with a hospital to be considered primarily engaged directly in the continuous active conduct of medical research in conjunction with a hospital, but in any event there must be a joint effort on the part of the research organization and the hospital pursuant to an understanding that the two organizations will maintain continuing close cooperation in the active conduct of medical research. For example, the necessary joint effort will normally be found to exist if the activities of the medical research organization are carried on in space located within or adjacent to a hospital, the organization is permitted to utilize the facilities (including equipment, case studies, etc.) of the hospital on a continuing basis directly in the active conduct of medical research, and there is substantial evidence of the close cooperation of the members of the staff of the research organization and members of the staff of the particular hospital or hospitals. The active participation in medical research by members of the staff of the particular hospital or hospitals will be considered to be evidence of such close cooperation. Because medical research may involve substantial investigation, experimentation and study not immediately connected with hospital or medical care, the requisite joint effort will also normally be found to exist if there is an established relationship between the research organization and the hospital which provides that the cooperation of appropriate personnel and the use of facilities of the particular hospital or hospitals will be required whenever it would aid such research.

(viii) *Commitment to spend contributions.* The organization's commitment that the contribution will be spent within the prescribed time only for the prescribed purposes must be legally enforceable. A promise in writing to the donor in consideration of his making a contribution that such contribution will be so spent within the prescribed time will constitute a commitment. The expenditure of contributions received for plant, facilities, or equipment, used solely for medical research purposes (within the meaning of subdivision (ii) of this subparagraph), shall ordinarily be considered to be an expenditure for medical research. If a contribution is made in other than money, it shall be considered spent for medical research if the funds from the proceeds of a disposition thereof are spent by the organization within the five-year period for medical research; or, if such property is of such a kind that it is used on a continuing basis directly in connection with such research, it shall be considered spent for medical research in the year in which it is first so used. A medical research organization will be presumed to have made the commitment required under this subdivision with respect to any contribution if its governing instrument or by-laws require that every contribution be spent for medical research before January 1 of the fifth year which begins after the date such contribution is made.

(ix) *Organizational period for new organizations.* A newly created organization, for its "organizational" period, shall be considered to be primarily engaged directly in the continuous active conduct of medical research in conjunction with a hospital within the meaning of subdivisions (v) and (vii) of this subparagraph if during such period the organization establishes to the satisfaction of the Commissioner that it reasonably can be expected to be so engaged by the end of such period. The information to be submitted shall include detailed plans showing the proposed initial medical research program, architectural drawings for the erection of buildings and facilities to be used for medical research in accordance with such plans, plans to assemble a professional staff and detailed projections showing the timetable for the expected accomplishment of the foregoing. The "organizational" period shall be that period which is appropriate to implement the proposed plans, giving effect to the proposed amounts involved and the magnitude and complexity of the projected medical research program, but in no event in excess of three years following organization.

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

Example (1). N, an organization referred to in section 170(c)(2), was created to promote human knowledge within the field of medical research and medical education. All of N's assets were contributed to it by A and consist of a diversified portfolio of stocks and bonds. N's endowment earns 3.5 percent annually, which N expends in the conduct of various medical research programs in conjunction with Y hospital. N is located adjacent to Y hospital, makes substantial use of Y's facilities and there is close cooperation between the staffs of N and Y. N is directly engaged in the continuous active conduct of medical research in conjunction with a hospital, meets the principal purpose test described in subdivision (iv) of this subparagraph, and is therefore an organization described in section 170(b)(1)(A)(iii).

Example (2). O, an organization referred to in section 170(c)(2), was created to promote human knowledge within the field of medical research and medical education. All of O's assets consist of a diversified portfolio of stocks and bonds. O's endowment earns 3.5 percent annually, which O expends in the conduct of various medical research pro-

grams in conjunction with certain hospitals. However, in 1974, O receives a substantial bequest of additional stocks and bonds. O's budget for 1974 does not take into account the bequest and as a result O expends only 3.1 percent of its endowment in 1974. However, O establishes that it will expend at least 3.5 percent of its endowment for the active conduct of medical research for taxable years 1975 through 1978. O is therefore directly engaged in the continuous active conduct of medical research in conjunction with a hospital for taxable year 1975. Since O also meets the principal purpose test described in subdivision (iv) of this subparagraph, it is therefore an organization described in section 170(b)(1)(A)(iii) for taxable year 1975.

Example (3). M, an organization referred to in section 170(c)(2), was created to promote human knowledge within the field of medical research and medical education. M's activities consist of the conduct of medical research programs in conjunction with various hospitals. Under such programs, researchers employed by M engage in research at laboratories set aside for M within the various hospitals. Substantially all of M's assets consists of 100 percent of the stock of X corporation, which has a fair market value of approximately 100 million dollars. X pays M approximately 3.3 million dollars in dividends annually, which M expends in the conduct of its medical research programs. Since M expends only 3.3 percent of its endowment, which does not constitute a significant percentage, in the active conduct of medical research, M is not an organization described in section 170(b)(1)(A)(iii) because M is not engaged in the continuous active conduct of medical research.

(xi) *Special rule for organizations with existing ruling.* This subdivision shall apply to an organization that prior to January 1, 1970, had received a ruling or determination letter which has not been expressly revoked holding the organization to be a medical research organization described in section 170(b)(1)(A)(iii) and with respect to which the facts and circumstances on which the ruling was based have not substantially changed. An organization to which this subdivision applies shall be treated as an organization described in section 170(b)(1)(A)(iii) for a period not ending prior to 90 days after February 13, 1976 (or where appropriate, for taxable years beginning before such 90th day). In addition, with respect to a grantor or contributor under sections 170, 507, 545(b)(2), 556(b)(2), 642(c), 4942, 4945, 2055, 2106(a)(2), and 2522, the status of an organization to which this subdivision applies will not be affected until notice of change of status under section 170(b)(1)(A)(iii) is made to the public (such as by publication in the Internal Revenue Bulletin). The preceding sentence shall not apply if the grantor or contributor had previously acquired knowledge that the Internal Revenue Service had given notice to such organization that it would be deleted from classification as a section 170(b)(1)(A)(iii) organization.

* * * * *

(This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).)

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: February 10, 1976.

WILLIAM M. GOLDSTEIN,
Deputy Assistant Secretary of the Treasury.

[FR Doc.76-4457 Filed 2-13-76;8:45 am]

Title 29—Labor

CHAPTER XIV—EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

PART 1601—PROCEDURAL REGULATIONS

Designated 706 Agencies

By virtue of the authority vested in it by Section 713(a) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e-12(a), 78 Stat. 265, the Equal Employment Opportunity Commission (hereinafter referred to as the Commission) hereby amends Title 29, Chapter XIV, § 1601.12(m) in accordance with the requirements of § 1601.12(i)(1).

The amended § 1601.12(m) sets forth those state and local agencies which have been formally designated as 706 Agencies as defined in § 1601.12(c) for the purpose of receiving charges deferred by the Commission pursuant to Section 706(c) and (d) of Title VII and whose final findings and orders will be accorded substantial weight by the Commission as provided in § 1601.19b(e).

Publication of this amendment to § 1601.12(m) effectuates the formal designation of the following agencies as 706 Agencies:

Allentown (Pennsylvania) Human Relations Commission.
Charleston (West Virginia) Human Rights Commission.
Fairfax County (Virginia) Human Rights Commission.
Montgomery County (Maryland) Human Relations Commission.
Pittsburgh (Pennsylvania) Commission on Human Relations.
Wheeling (West Virginia) Human Rights Commission.

Notice of the proposed designation of the foregoing agencies as 706 Agencies was published in the December 30, 1975, issue of the FEDERAL REGISTER, 40 FR 6676, with notice that written comments must have been filed with the Commission on or before January 23, 1976.

With the addition of the foregoing agencies, § 1601.12(m) is amended to read as follows:

§ 1601.12 Deferrals to State and local authorities.

* * * * *

(m) * * * The designed 706 Agencies are:

Alaska, Commission for Human Rights.
Allentown, Human Relations Commission.
Arizona, Civil Rights Division.
Baltimore, Community Relations Commission.
Bloomington, Human Rights Commission.
California, Fair Employment Practices Commission.
Charleston, Human Rights Commission.
Colorado, Civil Rights Commission.
Connecticut, Commission on Human Rights and Opportunties.
Dade County, Fair Housing and Employment Commission.
Delaware, Department of Labor.
District of Columbia, Office of Human Rights.
East Chicago, Human Relations Commission.
Fairfax County, Human Rights Commission.
Gary, Human Relations Commission.
Idaho, Commission on Human Rights.
Illinois, Fair Employment Practices Commission.
Indiana, Civil Rights Commission.
Iowa, Commission on Civil Rights.
Kansas, Commission on Civil Rights.
Kentucky, Commission on Human Rights.
Maine, Human Relations Commission.
Maryland, Commission on Human Relations.
Massachusetts, Commission Against Discrimination.
Michigan, Civil Rights Commission.
Minneapolis, Department of Civil Rights.
Minnesota, Department on Human Rights.
Missouri, Commission on Human Rights.
Montana, Commission for Human Rights.
Montgomery County, Human Relations Commission.
Nebraska, Equal Opportunity Commission.
Nevada, Commission on Equal Rights of Citizens.
New Hampshire, Commission for Human Rights.
New Jersey, Division on Civil Rights, Department of Law and Public Safety.
New York City, Commission on Human Rights.
New York State, Division of Human Rights.
Ohio, Civil Rights Commission.
Oklahoma, Human Rights Commission.
Omaha, Human Relations Department.
Oregon, Bureau of Labor.
Pennsylvania, Human Relations Commission.
Philadelphia, Commission on Human Relations.
Pittsburgh, Commission on Human Relations.
Rhode Island, Commission for Human Rights.
Rockville (Maryland), Human Rights Commission.
Seattle, Human Rights Commission.
Springfield (Ohio), Human Relations Department.
South Dakota, Human Relations Commission.
Tacoma, Human Rights Commission.
Utah, Industrial Commission.
Virgin Islands, Department of Labor.
Washington State, Human Rights Commission.
West Virginia, Human Rights Commission.
Wheeling, Human Rights Commission.
Wichita, Commission on Civil Rights.
Wisconsin, Equal Rights Division, Department of Industry, Labor and Human Relations.
Wyoming, Fair Employment Practices Commission.

The designated Notice Agencies are:

Arkansas, Governor's Committee on Human Resources.
Florida, Commission on Human Relations.
Georgia, Governor's Council on Human Relations.
Montana, Department of Labor and Industry.
North Dakota, Commission on Labor.
Ohio, Director of Industrial Relations.
South Carolina, Human Affairs Commission.

(Sec. 713(a), 78 Stat. 265 (42 U.S.C. Sec. 2000e-12(a))

This amendment is effective February 17, 1976.

Signed at Washington, D.C. this 10th, day of February 1976.

LOWELL W. PERRY,
Chairman, Equal Employment Opportunity Commission.

[FR Doc.76-4500 Filed 2-13-76;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

PART 213—WATER RESOURCES PROJECTS

PART 266—PROJECT DEAUTHORIZATION REVIEW PROGRAM

Rescission of Part

Part 213 has been superseded by Part 266 of this Chapter, effective September 15, 1975. Part 213 was published for only the first year implementation of the Project Deauthorization Program. Part 266 was published under proposed rulemaking and then adopted to provide policies and procedures for annual reports to be submitted to Congress by the Chief of Engineers. Therefore, Part 213, Water Resources Projects, is rescinded effective September 15, 1975.

Dated: February 9, 1976.

RUSSELL J. LAMP,
Colonel,
Corps of Engineers, Executive.

[FR Doc.76-4385 Filed 2-13-76;8:45 am]

Title 39—Postal Service

CHAPTER I—U.S. POSTAL SERVICE

PART 955—RULES OF PRACTICE BEFORE THE BOARD OF CONTRACT APPEALS

Revision of Rules of Practice

The Chairman of the Board of Contract Appeals, acting in accordance with authority delegated to him by 39 CFR 224.1(c)(5)(v)(A), hereby adopts a complete revision of Part 955 of title 39, CFR, which contains the Rules of Practice Before the Board of Contract Appeals.

Accordingly, Part 955 of title 39, Code of Federal Regulations, is revised to read as follows:

Sec.
955.1 Jurisdiction, procedure, representation of parties.

PRELIMARY PROCEDURES

955.2 Appeals, how taken.
955.3 Notice of appeal, contents of.
955.4 Forwarding of appeals.
955.5 Preparation, contents, organization, forwarding, and status of appeal file.
955.6 Dismissal for lack of jurisdiction.
955.7 Pleadings.
955.8 Amendments of pleadings or record.
955.9 Hearing election.
955.10 Prehearing briefs.
955.11 Prehearing or presubmission conference.
955.12 Submission without a hearing.
955.13 Optional accelerated procedure.
955.14 Settling the record.
955.15 Discovery—depositions.
955.16 Interrogatories to parties, admission of facts, and production and inspection of documents.
955.17 Service of papers.

HEARINGS

955.18 Where and when held.
955.19 Notice of hearings.
955.20 Unexcused absence of a party.
955.21 Nature of hearings.
955.22 Examination of witnesses.
955.23 Copies of papers.
955.24 Posthearing briefs.
955.25 Transcript of proceedings.
955.26 Withdrawal of exhibits.

REPRESENTATION

955.27 The appellant.
955.28 The respondent.

DECISIONS

955.29 Decisions.

MOTION FOR RECONSIDERATION

955.30 Motion for reconsideration.

DISMISSALS

955.31 Dismissal without prejudice.
955.32 Dismissal for failure to prosecute.

EX PARTE COMMUNICATION

955.33 Ex parte communications.

SANCTIONS

955.34 Sanctions.

EFFECTIVE DATE AND APPLICABILITY

955.35 Effective date and applicability.

AUTHORITY: 39 U.S.C. 204, 401.

§ 955.1 Jurisdiction, procedure, representation of parties.

(a) *Jurisdiction for considering appeals.* The U.S. Postal Service Board of Contract appeals (referred to herein as the "Board") shall consider and determine appeals from decisions of contracting officers arising under contracts which contain provisions requiring the determination of appeals by the Postmaster General or his duly authorized representative or board. In addition the Board shall have jurisdiction over other matters assigned to it by the Postmaster General. The Board has authority to determine appeals falling within the scope of its jurisdiction as fully and finally as might the Postmaster General himself.

(b) *Organization and location of the Board.* (1) The Board is located in Washington, D.C., and its mailing address is 475 L'Enfant Plaza West SW., Washington, D.C. 20260.

(2) The Board consists of the Judicial Officer as Chairman, and the Administrative Law Judges of the Postal Service. All members of the Board shall be attorneys at law duly licensed by any state, commonwealth, territory, or the District of Columbia. In general, the appeals are assigned to a panel of at least three members of the Board. The decision of a majority of the panel constitutes the decision of the Board.

(c) *Decisions on questions of law.* When an appeal is taken pursuant to a Disputes Clause in a contract which limits appeals to disputes concerning questions of fact, the Board may, in its discretion, hear, consider, and decide all questions of law necessary for the complete adjudication of the issue. In the consideration of an appeal, should it appear that a claim is involved which is not cognizable under the terms of the contract, the Board may make findings of fact with respect to such a claim without expressing an opinion on the question of liability.

(d) *Board of contract appeals procedure*—(1) *Rules.* Appeals referred to the Board are handled in accordance with the rules of the Board.

(2) *Administration and Interpretation of Rules.* Emphasis is placed upon the sound administration of these rules in specific cases, because it is impracticable to articulate a rule to fit every possible circumstance which may be encountered. These rules will be interpreted so as to secure a just and inexpensive determination of appeals without unnecessary delay.

(3) *Preliminary procedures.* Preliminary procedures are available to encourage full disclosure of relevant and material facts, and to discourage unwarranted surprise.

(4) *Time, computation, and extensions.* (i) All time limitations specified for various procedural actions are computed as maximums, and are not to be fully exhausted if the action described can be accomplished in a lesser period. These time limitations are similarly eligible for extension in appropriate circumstances, on good cause shown.

(ii) Except as otherwise provided by law, in computing any period of time prescribed by these rules or by any order of the Board, the day of the event from which the designated period of time begins to run shall not be included, but the last day of the period shall be included unless it is a Saturday, Sunday, or a legal holiday in which event the period shall run to the end of the next business day.

(iii) Requests for extensions of time from either party shall be made in writing stating good cause therefor.

(5) *Place of filings.* Unless the Board otherwise directs, all notices of appeal, pleadings and other communications shall be filed with the Docket Clerk of the Board at its offices in the United States Postal Service Headquarters Building, 475 L'Enfant Plaza West SW., Washington, D.C. 20260. Communications to the Board shall be addressed to Board of Contract Appeals, United States Postal Service, Washington, D.C. 20260.

(e) *Representation of parties.* Whenever reference is made to contractor, appellant, contracting officer, respondent and parties, this shall include respective counsel for the parties, as soon as appropriate notices of appearance have been filed with the Board.

PRELIMINARY PROCEDURES

§ 955.2 Appeals, how taken.

Notice of an appeal must be in writing, and the original, together with two copies, may be filed with the contracting officer from whose decision the appeal is