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Order from Superintendent of Documents, Government Printing Office, Washington 25, D.C.

Rules and Regulations

Title 32—NATIONAL DEFENSE

Chapter VI—Department of the Navy

SUBCHAPTER C—PERSONNEL

PART 719—NONJUDICIAL PUNISHMENT, NAVAL COURTS AND CERTAIN FACT-FINDING BODIES

Correction

1. Paragraph 3 of the amendments published in the FEDERAL REGISTER of July 19, 1963, at 28 F.R. 7396 is corrected to read as follows:

3. Section 719.118(a)(5)(iv)(*e*) is revised to read as follows:

§ 719.118 Promulgating orders.

(a) *General and special courts-martial.* * * *

(5) *Distribution.* * * *

(iv) Plain copies: * * *

(*e*) One to Auditor in Charge, Defense Accounting and Auditing Division, U.S. General Accounting Office, U.S. Naval Station, Navy Yard Annex, Building 159–E, 2d Floor, Washington 25, D.C., in the case of Marine Corps personnel.

* * * * *

By direction of the Secretary of the Navy.

[SEAL] ROBERT D. POWERS, Jr.,
Rear Admiral, U.S. Navy, Acting Judge Advocate General of the Navy.

JULY 25, 1963.

[F.R. Doc. 63–8013; Filed, July 30, 1963; 8:47 a.m.]

PART 728—MEDICAL CARE FOR ELIGIBLE PERSONS AT NAVAL MEDICAL FACILITIES

PART 732—MEDICAL AND DENTAL CARE AT NAVY EXPENSE AT NON-NAVY FACILITIES

Miscellaneous Amendments

1. Section 728.22(h), including the footnote thereto, is revised to read as follows:

§ 728.22 Members of the Navy and Marine Corps reserve components, and the Fleet Reserve and Fleet Marine Corps Reserve.

* * * * *

(h) *Nonnaval medical care.* Part 732 deals with eligibility of members of Navy and Marine Corps reserve components to medical care at other than naval medical facilities.

* * * * *

2. Subpart G is revised to read as follows:

Subpart G—Beneficiaries of Other Federal Agencies

Sec.

728.61 Beneficiaries of the Veterans' Administration.
728.62 Beneficiaries of the Bureau of Employees' Compensation.
728.63 Beneficiaries of the Public Health Service, not members of the uniformed services.
728.64 Selective Service registrants and applicants for enlistment or reenlistment.
728.65 Beneficiaries of the U.S. Naval Home.
728.66 FBI Agents and claimants against the United States.
728.67 Beneficiaries of the Department of State; officers and employees of the Foreign Service and their dependents.
728.68 Peace Corps.

AUTHORITY: §§ 728.61 to 728.68 issued under R.S. 161, secs. 5031, 6201–6203, 70A Stat. 278, 387, as amended; 5 U.S.C. 22, 10 U.S.C. 5031, 6201–6203.

§ 728.61 Beneficiaries of the Veterans' Administration.

(a) *Bed allocation.* Designated naval hospitals have beds allocated for Veterans' Administration patients. The VA office of jurisdiction of the area in which the hospital is located will effect use of these beds. The number of beds set apart for VA patients may be exceeded during any month with the approval of the commanding officer of the hospital, provided that use thereof be correspondingly reduced in other months so that the average monthly use of such beds, at the end of the fiscal year, will not have exceeded the total allocation.

(b) *Authorization.* A VA beneficiary may be admitted to a naval hospital having beds allocated for VA patients on the presentation of a written authorization for admission from the VA office of jurisdiction. (Only in a bona fide medical emergency will an admission be authorized to a naval medical facility not having beds allocated for VA patients.) In general, only medical and surgical cases requiring hospital treatment will be admitted. Neurological and certain neuropsychiatric cases without obvious evidence of psychosis and not requiring restraint may be admitted for diagnosis. Cases of suspected tuberculosis may be admitted for diagnosis. When diagnosed, cases of psychosis, psychoneurosis, and tuberculosis of present clinical significance shall be reported to the VA office of jurisdiction with the request for prompt transfer to a VA facility.

(c) *Medical care.* A VA beneficiary admitted for inpatient treatment may be furnished complete medical and surgical care. Elective medical or surgical care is not authorized. Prostheses such as eyes or limbs and appliances such as hearing aids, spectacles, or orthopedic footwear may be furnished when required for the proper treatment of the patient. When a prosthesis or appliance is furnished a VA beneficiary receiving inpatient care in a naval hospital, no additional charge for such items is to be made since the reimbursement rate covers costs of all medical and surgical care and adjuncts to medical care in treatment of VA patients.

(d) *Emergency admissions.* A VA benficiary presenting a bona fide medical emergency, other than a psychotic condition, may be admitted to a naval medical facility in the United States on his own application and the presentation of satisfactory evidence of eligibility, such as evidence of receipt of VA compensation or discharge for a service-connected disability. In an emergency admission, the commanding officer of the naval medical facility shall notify the appropriate VA office of jurisdiction by message or other expeditious means within 72 hours after the date and hour of admission and shall request authorization for the admission and emergency treatment. In case the VA office of jurisdiction does not authorizes the emergency admission and care, or in case VA authorization is not received while the beneficiary is an inpatient, the patient shall be personally responsible for payment of the charges for his hospitalization at the general reimbursement rate. Collection shall be effected locally.

(e) *Disposition of emergency admissions.* A VA beneficiary admitted in an emergency shall be discharged promptly upon termination of the emergency, unless arrangements have been made with the VA office of jurisdiction:

(1) For transfer to a VA hospital if further hospitalization is required; or

(2) To retain as a VA beneficiary chargeable against a bed allocated to the VA.

(f) *Case number.* Each VA beneficiary upon admission shall be assigned a case number from the Register of Patients, DD Form 739. The case number should appear on all records of the patient. Each VA beneficiary admitted shall be required to conform to regulations governing the internal administration of the naval hospital. Restrictive or punitive measures and assignment to work details shall conform as nearly as possible to VA instructions.

(g) *Resolution of problems.* All problems pertaining to a VA beneficiary, including admission, medical or other records, and correspondence, shall be matters of resolution between the commanding officer of the naval hospital and the VA office of jurisdiction authorizing admission. Questions of policy and administration which cannot be so resolved shall be forwarded to the Administrator of Veterans Affairs via BUMED for resolution.

(h) *Outpatient examinations.* Certain naval hospitals may be designated by BUMED to provide outpatient examinations required in the adjudication of claims for disability compensation. Such examinations shall be performed only when properly authorized by the VA. When the examination requires more than 1 day, the claimant shall be admitted as an inpatient from the beginning of the examination. The proper VA authorization for such admission shall be obtained.

(i) *Charges and collections.* Beneficiaries of the VA shall be billed at the interagency rate and collection made locally from the VA office of jurisdiction by hospitals located within the United States. For hospitals outside of the United States, charges and collections shall be made by the management bureau. Where authorized, charges for outpatient services rendered to certain VA beneficiaries patients shall be collected locally at the examination rate.

§ 728.62 Beneficiaries of the Bureau of Employees' Compensation.

(a) *Authority.* When a civilian employee sustains a personal injury while in the performance of duty, he is entitled to full medical care for effects of the injury under the Federal Employees' Compensation Act (5 U.S.C. 751–793). The term "injury" includes a disease which is proximately related to the duties of the employee. The term "employee" includes:

(1) All civil officers and employees of all branches of the Government of the United States (including officers and employees of instrumentalities of the United States wholly owned by the United States).

(2) Employees of the government of the District of Columbia (except members of the Police and Fire Departments of the District of Columbia).

(3) Persons rendering personal services of a kind similar to those of civilian officers or employees of the United States to any department, independent establishment, or agency thereof (including instrumentalities of the United States wholly owned by it) in any case in which acceptance or use of such services is authorized by an act of Congress.

(b) *Authorization for outpatient treatment and for admission.* (1) A civilian employee may receive treatment as an outpatient or be admitted to a naval medical facility for treatment as a Bureau of Employees' Compensation beneficiary upon presentation of a properly prepared Form CA–16, CA–17, or the equivalent from the employee's supervisor. Emergency medical care may be provided upon oral authorization from the employee's supervisor or without specific authority if the condition appears to be related to Federal employment, provided a properly executed request for treatment is issued by the employee's supervisor within 48 hours. Without a request for medical treatment on Form CA–16, CA–17, or the equivalent issued in accordance with regulations governing administration of the Federal Employees' Compensation Act (FECA), a naval medical facility has no authority to treat or admit an employee as a BEC beneficiary.

(2) Form CA–16 has been provided by the BEC for use in cases in which there is no doubt concerning the right of the employee to receive care. Form CA–17 has been provided for use in those cases where there may be doubt whether or not the disability of an employee is due to injury coming within the purview of the Act. This authorization permits a complete examination on an inpatient basis if necessary, including a reasonable period of diagnostic study and specialist consultation to establish a diagnosis and an opinion as to the probable relationship to an injury or condition of employment. If the BEC determines that the employee's injury or disease was not incurred in performance of his duty, that agency will inform the naval facility that no further treatment as an inpatient or outpatient shall be rendered to the employee as a BEC beneficiary. Charges for hospitalization or outpatient treatment then become the personal responsibility of the employee on and after the date of receipt of the notice of disallowance. The employee shall be notified of the BEC ruling, and collection shall be effected from the employee for any period of hospitalization subsequent to date of receipt of notice of disallowance.

(3) The Forms CA–16 and CA–17 provide authority for treatment and/or admission; however, it is a responsibility of the medical facility to prepare and submit a Form CA–20 and supporting papers to the BEC in all cases and to submit a narrative summary, Standard Form 502, in all cases where (i) the disability is protracted 30 days or more, (ii) the medical relationship of the condition of an alleged injury or the occupational condition is not clear, or (iii) when requested by BEC.

(4) It is the primary duty of the employee's immediate supervisor to refer the employee for medical care in accordance with the Federal Employees' Compensation Act. 20 CFR 1.3 requires that each injury which is likely to result in any medical charge against the Compensation Fund; any disability for work beyond the day; prolonged medical treatment; future disability; permanent disability, including total or partial loss of use of arms or legs; or serious disfigurement of face, head, or neck shall be reported by the official superior on Form CA–2, Report of Injury. This report shall be transmitted to BEC without delay. The employee's original Notice of Injury, on Form CA–1 or otherwise, shall accompany the Report of Injury together with report of any investigation made and such statements or other data as may properly relate to the circumstances surrounding the injury. If the disability is not expected to exceed 3 days, the report may be withheld until the employee has returned to work. The Bureau of Employees' Compensation administers the medical care program and decides all questions arising in the furnishing of medical care to civilian employees.

(5) In the case of outpatient care provided as a followup to inpatient care, the authorization for admission shall be used to provide a continuation of treatment on an outpatient basis.

(c) *Medical care authorized*—(1) *Inpatient.* (i) Complete medical and surgical care necessary for treatment of an injury sustained while in the performance of duty, including, where not excluded by law, diseases proximately caused by the condition of employment, may be furnished a BEC beneficiary hospitalized in a naval medical facility. Specific BEC authorization should be obtained for major surgical procedures such as laminectomy, amputation of major members, vascular surgery, brain surgery, lung surgery, etc., unless the urgency of the situation is such that time would not permit the obtaining of separate authorization. A BEC beneficiary patient requiring prolonged hospitalization shall be reported to the BEC for transfer from the naval medical facility as soon as the patient's condition permits. Transfer shall be at the expense of the BEC.

(ii) When an orthopedic or prosthetic appliance is deemed necessary by reason of an injury which has been found by the BEC to have occurred while in the performance of duty, a request shall be submitted to the BEC for approval and shall include the necessity therefor, and a brief description and cost of the appliance. Minor appliances costing not more than $50 may be purchased without specific BEC authorization. When an appliance is furnished a BEC beneficiary while undergoing treatment as an inpatient, no additional charge shall be made for the item since the reimbursement per diem rate covers all cost incurred in treatment of inpatients.

(iii) Members of the Reserve Officers Training Corps will be provided medical care as BEC beneficiaries for the conditions set forth in Subpart C. Form CA–16 or CA–17 is required.

(2) *Outpatient.* Outpatient services shall be provided civilian employees:

(i) Who sustain occupational injuries (including occupational illnesses) for which hospitalization is not required.

(ii) As a continuation of treatment following hospitalization for occupational injuries and/or illnesses.

(d) *Regulations governing administration of the Federal Employees' Compensation Act.* Detailed procedural instructions can be found in the BEC booklet "Regulations Governing Administration of the Federal Employees' Compensation Act" (see 20 CFR Ch. I, Subchap. B) and Navy Civilian Personnel Instructions.

(e) *Charges and collections.* Beneficiaries of the BEC shall be billed for inpatient and outpatient care at the rates prescribed by BUMED Instruction 6320.4 series and collections made locally from the BEC office of jurisdiction by hospitals. Charges and collections shall be made by BUMED for the Naval Hospital, Guantanamo Bay, Cuba, only. All billings must be supported by a CA–16 or CA–17; in addition, outpatient services shall be supported by a DD Form 7. Charges and collections for naval medical facilities not under the management control of BUMED shall be made in accordance with the Navy Comptroller Manual (vol. 3, chap. 5, sec. 2, subsec. 5).

(f) *Exception.* The BEC will not be billed for outpatient services provided civilian employees under the Navy's Health Program for Civilian Employees (see § 728.73).

§ 728.63 Beneficiaries of the Public Health Service, not members of the uniformed services.

(a) *Authority.* The following persons, not members of the uniformed services, are entitled to medical, surgical, and

dental treatment and hospitalization under the Public Health Service Act (42 U.S.C. 249 and 253) and may receive such care and treatment at the expense of the Public Health Service and from other Government medical or hospital facilities when authorized by officials of that agency.

(1) Noncommissioned ships' officers and members of crews of the U.S. Coast and Geodetic Survey on active duty.

(2) Seamen employed on vessels of United States Registry.

(3) Seamen employed on State school ships or on vessels of the U.S. Government of more than 5 tons' burden.

(4) Cadets of State maritime academies on State training ships.

(5) Seamen on vessels of the Mississippi River Commission and officers and crews of vessels of the Fish and Wildlife Service.

(6) Enrollees in the United States Maritime Service on active duty and members of the Merchant Marine Corps.

(7) Employees and noncommissioned officers in the field service of the Public Health Service when injured or taken sick in line of duty.

(b) *Authorization for admission.* (1) Persons in the above categories may be admitted to naval medical facilities within the United States as beneficiaries of the Public Health Service upon presentation of the prescribed form, Treatment Authorization (Form PHS 894), prepared and signed by the medical officer of the nearest PHS medical facility.

(2) In the case of detached personnel, or those serving in a locality where a PHS medical officer is not available, who require emergency medical care, a written request for hospitalization signed by either the individual or the commanding officer (or ship's master) may be accepted. Nonemergency cases shall not ordinarily be admitted until eligibility for admission has been verified. There is no exception to the treatment that members of the American Merchant Marine may receive as long as they can show proof that they have been employed as a seaman for 60 days of continuous service, a part of which time must have been during the 90 days immediately preceding application for medical care. In emergency or nonemergency cases, the medical officer in charge of the nearest PHS hospital or inpatient clinic shall be immediately notified of the details, and requested to verify the propriety of such request for treatment. In cases involving Military Sea Transportation Service civil service seamen, the verification may be obtained by contacting the nearest MSTS facility. The method of notification (telephone, telegraph, etc.) shall be determined by the urgency of the situation at hand. The verifying officer shall forward one copy of the Treatment Authorization.

(c) *Emergency status.* In determining emergency and nonemergency classification, consideration should be given to the seaman's present status. For instance: a seaman may request treatment for what would normally be considered as a nonemergency ailment; however, it may be of such a nature that, unless treated, the man would not be able to sail with his ship. Such cases should be treated as an emergency.

(d) *Outpatient treatment.* Outpatient care may be furnished persons in the above categories only in an emergency when immediate treatment is required. In such cases, the commanding officer of the naval medical facility shall obtain authorization as required by paragraph (b)(2) of this section.

(e) *Outside the United States.* Outside the United States, only persons in the following categories may be provided medical care as PHS beneficiaries:

(1) Noncommissioned ships' officers and members of the Coast and Geodetic Survey on active duty.

(2) Employees and noncommissioned officers in the field service of the PHS when injured or taken sick in line of duty.

(f) *Charges and collections.* Charges and collections for PHS beneficiaries shall be made at the management bureau level.

§ 728.64 Selective Service registrants and applicants for enlistment or reenlistment.

(a) *Selective Service registrants*—(1) *Authority.* Selective Service registrants who suffer illness or injury while acting under orders issued under the Universal Military Service and Training Act are entitled to emergency medical care, including hospitalization, in accordance with rules and regulations prescribed by the Director of Selective Service (50 U.S.C. App. 461). Registrants shall be provided necessary medical care and treatment, including inpatient care, upon request of the local Selective Service official.

(2) *Charges and collections.* Charges and collections for Selective Service registrants shall be made at the management bureau level.

(b) *Applicants for enlistment or reenlistment.* (1) Applicants for enlistment or reenlistment while under military control who suffer acute illnesses and/or injuries while awaiting or undergoing enlistment processing at recruiting stations or at Armed Forces examining stations may be furnished emergency medical care including emergency hospitalization at military medical facilities. Admissions shall be accomplished in accordance with § 728.61(d).

(2) *Charges and collections.* Charges and collections shall be accomplished in accordance with § 728.61(i).

§ 728.65 Beneficiaries of the U.S. Naval Home.

(a) *Admission.* A beneficiary of the U.S. Naval Home at Philadelphia, Pa., may be admitted to a naval hospital upon the request of the Governor of the Naval Home. If a beneficiary is admitted in an emergency, the Governor of the Naval Home shall be notified immediately.

(b) *Charges and collections.* No charges are to be made for hospitalization.

§ 728.66 FBI Agents and claimants against the United States.

(a) *FBI Agents.* Agents of the Federal Bureau of Investigation are authorized to receive physical examinations at naval medical facilities upon presentation of a letter of authorization from the Department of Justice. Hospitalization, not to exceed 3 days, is authorized for diagnostic purposes only if necessary to determine the individual's physical fitness and will not be for the purpose of correcting defects.

(b) *Claimants against the United States.* Claimants against the United States whose claims or suits are being handled by the Department of Justice or a U.S. attorney may be given physical examinations at naval medical facilities upon written authorization from the Department of Justice or U.S. attorney in the case. The purpose of such examinations will be to determine the extent and nature of the injuries or disabilities claimed, and the report of such examinations shall be furnished promptly to the Department of Justice or U.S. attorney. Hospitalization, not to exceed 3 days, is authorized if necessary for the proper conduct of the examination.

(c) *Charges and collections.* Charges shall be made at the rates as prescribed by BUMED Instruction 6320.4 series. Collections for physical examinations shall be made at the activity level for BUMED-managed activities (except Naval Dispensary, Washington, D.C.), and in accordance with the Navy Comptroller Manual (vol. 3, chap. 5, sec. 2, subsec. 5) for non-BUMED-managed activities. Collections for hospitalization shall be made by the management bureau upon receipt of the letter of authorization.

§ 728.67 Beneficiaries of the Department of State; officers and employees of the Foreign Service and their dependents.

(a) *Authority.* In the event an officer or employee of the Foreign Service who is a citizen of the United States, or his dependent, incurs an illness or injury while located abroad, which requires hospitalization or similar treatment, the Secretary of State is authorized to pay for the cost of treatment of the illness or injury under the Foreign Service Act of 1946, as amended (22 U.S.C. 1156).

(1) In case of a dependent, maternity care is not included.

(2) The term "dependent" includes wife who is not an employee of the Foreign Service; husband who is physically or mentally incapable of supporting himself; and unmarried children (including step and adopted children) under 21 years of age or, regardless of age, if physically or mentally incapable of supporting themselves.

(b) *Authorization for care.* (1) Foreign Service personnel and their dependents may be furnished inpatient and outpatient care at naval medical facilities for an illness or injury incurred abroad, upon written request from an appropriate Department of State official. In event that a Foreign Service employee or his dependent is admitted in an emergency without the required written request, the commanding officer of the naval medical facility shall obtain proper written authorization as soon as possible from the appropriate Department of

State official. Outpatient care at the expense of the Department of State is authorized only when treatment is furnished for an illness or injury incurred abroad which requires hospitalization. Outpatient care before and following hospitalization is authorized.

(2) The written request for admission shall include complete identification of the Foreign Service employee or his dependent, and statements that the treatment is authorized under Foreign Service Act of 1946 and that reimbursement will be made by the Department of State.

(c) *Admission to naval medical facilities overseas.* (1) In event of an illness or injury of a Foreign Service employee or his dependent which, in the opinion of the principal or administrative officer of the Department of State, meets the conditions of eligibility for hospitalization, such officer will furnish the commanding officer of the overseas naval medical facility a letter, in duplicate, requesting admission of the employee or dependent at expense of the Department of State.

(2) In event that the Department of State principal or administrative officer believes that the illness or injury does not meet the conditions of eligibility for hospitalization, that officer may request admission of the Foreign Service employee or dependent at the patient's own expense. If admission is authorized by the commanding officer of the overseas naval medical facility, all hospitalization expenses incurred shall be the responsibility of the employee and shall be collected locally. If payment is not made within the prescribed period, the commanding officer shall notify the administrative officer of the nearest Foreign Service post. The principal officer at the employee's post will take immediate steps to insure that the naval medical facility is reimbursed by the Foreign Service employee.

(d) *Evacuation to the United States.* If it is determined that a Foreign Service employee or his dependent requires prolonged hospitalization, the commanding officer of the naval medical facility shall report the case to the nearest Department of State officer and request authority to return the patient to the United States. Aeromedical evacuation may be utilized in accordance with OPNAV Instruction 4630 series. Dependent patients requiring prolonged hospitalization who decline evacuation shall be released to custody of their sponsor.

(e) *Admission to U.S. naval hospital in United States.* The Medical Director, Department of State, will arrange with the commanding officer of naval hospitals in the United States for admission of Foreign Service personnel and their dependents. Written authorization for admission, in duplicate, will be furnished by the medical director. In event an officer, employee, or dependent is admitted without prior authorization to a naval hospital in the United States in an emergency for treatment of an illness or injury incurred abroad, the commanding officer shall request authorization from the Medical Director, Department of State. *Admission is not authorized for an illness or injury incurred in the United States.*

(f) *Physical examinations and immunizations.* (1) The Foreign Service Act of 1946, as amended, authorizes the Secretary of State to provide for physical examinations for applicants for employment and for officers and employees of the Foreign Service who are United States citizens, and their dependents, including examinations necessary to establish disability or incapacity for retirement purposes. In addition, the Act authorizes the Secretary of State to provide for administration of inoculations and vaccinations for such officers and employees (22 U.S.C. 1158).

(2) Physical examinations may be conducted, whenever practicable, by medical officers at naval medical facilities, and immunizations may be furnished upon presentation of written authorization from an appropriate Department of State official. The authorization, in duplicate, will include the type of examination or immunization required and state that the individual is entitled to services at the expense of the Department of State. Reports of physical examinations shall be submitted as requested by the letter of authorization.

(g) *Charges and collections.* All charges and collections for beneficiaries of the State Department shall be made at the activity level for BUMED-managed activities, and in accordance with the Navy Comptroller Manual (vol. 3, chap. 5, sec. 2, subsec. 5) for non-BUMED-managed activities. Charges for inpatient and outpatient care shall be in accordance with the rates prescribed in BUMED Instruction 6320.4 series.

§ 728.68 Peace Corps.

(a) *Authority.* The Secretary of Defense has authorized medical care for Peace Corps volunteers and volunteer leaders to the same extent now authorized for officers and employees of the Foreign Service. Such care will be afforded when the availability of space and facilities and the capabilities of the professional staff permit.

(b) *Authorization for physical examination, treatment, and/or admission.* Peace Corps volunteers, volunteer leaders, and dependents of volunteer leaders may be furnished inpatient and outpatient care in naval medical facilities upon written request from an appropriate Peace Corps official. The written authorization shall include complete identification of the volunteer, volunteer leader, or his dependent; nature of the authorization and/or a statement that the illness or injury was incurred abroad; and that reimbursement will be made.

(c) *Medical care authorized.* (1) Peace Corps volunteers, volunteer leaders, and dependents of volunteer leaders may be furnished inpatient and outpatient care in naval medical facilities for an illness or injury incurred abroad upon written request from an appropriate Peace Corps official and subject to the availability of space and facilities and the capabilities of the medical staff. The medical care of Peace Corps volunteers, volunteer leaders, and dependents of volunteer leaders shall not interfere with the primary mission of the naval medical facility. In the event that a Peace Corps volunteer, volunteer leader, or his dependent is admitted in an emergency without the required written request, the commanding officer of the naval medical facility shall obtain proper written authorization as soon as possible from the appropriate Peace Corps official. Dental care shall be limited to the relief of pain or other emergency measures.

(2) If it is determined that a Peace Corps volunteer, volunteer leader, or his dependent requires prolonged hospitalization, the commanding officer of the naval medical facility shall report the case to the appropriate Peace Corps official and request authority to return the patient to the United States. Dependent patients requiring prolonged hospitalization who decline evacuation shall be released to the custody of their sponsor.

(3) Complete physical examinations or any part thereof may be conducted. Reports of physical examinations shall be submitted as requested by the letter of authorization. The authorization, in duplicate, shall include the type of examination required.

(4) Immunizations may be furnished upon written authorization from an appropriate Peace Corps official. The authorization, in duplicate, shall include the type of immunization required.

(d) *Charges and collections.* At BUMED-managed activities, charges and collections for outpatient visits, examinations, or immunizations shall be made at the activity level; charges and collections for inpatient service shall be made at BUMED level. For non-BUMED-managed activities, all charges and collections shall be made in accordance with the Navy Comptroller Manual (vol. 3, chap. 5, sec. 2, subsec. 5).

3. Section 728.71(f)(1), including the footnote thereto, is revised to read as follows:

§ 728.71 Former women members of the Armed Forces—maternity care.

* * * * *

(f) *Overseas.* * * *

(1) Her commanding officer shall provide for her hospitalization at a naval medical facility if available within his command. If not available, the services of any other Federal hospital which may be available should be utilized. If a Federal hospital is not available, see Part 732 of this chapter regarding care in civilian facilities.)

* * * * *

4. Section 728.81(b), including the footnote thereto, is revised to read as follows:

§ 728.81 Adjuncts to medical care.

* * * * *

(b) *Scope.* This subpart covers the provision of adjuncts at naval medical facilities. Part 732 of this chapter deals with referrals to civilian sources.

5. Part 732 is inserted, to read as follows:

Subpart A—General

Sec.
732.1 Policy.
732.2 Definitions.

Subpart B—Persons Eligible for Medical and Dental Care in Facilities Other Than Navy

Sec.
732.11 General.
732.12 Leave/liberty.
732.13 Persons eligible.

Subpart C—Medical and Dental Care in Federal Facilities Other Than Navy

732.21 General.
732.22 Uniformed services facilities.
732.23 Federal facilities other than those of the uniformed services.

Subpart D—Medical and Dental Care in Other Than Federal Facilities

732.31 General.
732.32 Emergency situations.
732.33 Authorizing officer.
732.34 Responsibilities of authorizing officer.
732.35 Nonavailability of Federal facilities.
732.36 Care which may be authorized.
732.37 Requests for authorization.
732.38 Notification of emergency situations.

Subpart E—Payments, Reports, Collections for Subsistence, and Records

732.41 General.
732.42 Payment for care at Federal facilities.
732.43 Payment for care in other than Federal facilities.
732.44 Collections for subsistence.
732.45 Reports.
732.46 Records.

AUTHORITY: §§ 732.1 to 732.46 issued under R.S. 161, secs. 5031, 6201–6203, 70A Stat. 278, 387, as amended; 5 U.S.C. 22, 10 U.S.C. 5031, 6201–6203. Interpret or apply sec. 4, 70 Stat. 805, sec. 6148, 70A Stat. 383, secs. 1071–1085, 72 Stat. 1445–1450, as amended; 5 U.S.C. 802, 10 U.S.C. 1071–1085, 6148.

Subpart A—General

§ 732.1 Policy.

It is the policy of the Navy to provide adequate medical and dental care for members of the Navy and Marine Corps on active duty. This is accomplished by making available care in Navy facilities and by arranging and paying for care in other Federal and non-Federal facilities when Navy facilities are not available.

§ 732.2 Definitions.

For the purpose of this part, the follow definitions apply:

(a) *Non-Navy medical and dental care.* Any medical or dental care provided outside Navy facilities.

(b) *Federal facilities.* Any medical or dental facility of the U.S. Government.

(c) *Uniformed services.* The Army, Navy, Marine Corps, Air Force, Coast Guard, Commissioned Corps of the Coast and Geodetic Survey, and Commissioned Corps of the Public Health Service.

(d) *Retired member of the Navy or Marine Corps.* (1) Except as indicated in subparagraph (2) of this paragraph, this term means a member or former member of the Navy or Marine Corps who is entitled to retired, retirement, or retainer or equivalent pay from the Navy or Marine Corps.

(2) When used in this part, this term does not include a member of a reserve component who is entitled to retired pay by reason of years of satisfactory Federal service and who has not served on active duty for 8 years other than for training duty.

(e) *Physician or surgeon.* A person who is legally qualified to prescribe and administer drugs and to perform surgical procedures.[1]

(f) *Dentist.* A person who is legally qualified to prescribe and administer drugs and perform procedures related to the teeth, jaws, and to structures contiguous to one or the other.[1]

(g) *Nurse.* A person licensed or registered to provide nursing services in the geographical area where the service is performed.[1]

(h) *Active duty.* Full-time duty in the Navy or Marine Corps. This includes duty on the active list, full-time training duty, annual training duty, and attendance, while in the active military service, at a school designated as a service school by law or by the Secretary of the military department concerned.

(i) *United States.* All the States and the District of Columbia.

(j) *NATO Status of Forces Agreement (SOFA) states.*

Belgium.	Italy.
Canada.	Luxembourg.
Denmark.	Netherlands.
Federal Republic of Germany.	Norway.
	Portugal.
France.	Turkey.
Greece.	United Kingdom.
Iceland.	United States.

Subpart B—Persons Eligible for Medical and Dental Care in Facilities Other Than Navy

§ 732.11 General.

The care authorized in this part may be provided to the persons set forth in this subpart to the extent indicated. No others are eligible except on specific authority of the Bureau of Medicine and Surgery.

§ 732.12 Leave/liberty.

Any person whose eligibility depends upon his being in a duty status at the time the care is provided is considered to be in a duty status while on authorized leave or liberty. Persons who are absent without authority continuously during a period of treatment are not eligible. However, when the absence without authority is terminated by the member's actual or constructive return to military control prior to termination of the care, entitlement will be the same as though no unauthorized absence existed. "Constructive return" to military control for medical or dental care is effected when a naval activity informs a civilian source providing medical or dental care to a naval member that the Navy will accept responsibility for the patient's care. The acknowledgment may be oral or in writing. Return to military control may also be effected when a member has been arrested by civil authorities at the request of the Navy or when the arrest has been accomplished by civil authorities for a civil offense and such authorities have notified the Navy that the member can be released to military custody.

§ 732.13 Persons eligible.

The following persons are eligible for all of the benefits of this part unless otherwise indicated:

(a) A member of the Regular Navy or Marine Corps or a midshipman of the U.S. Naval Academy when on active duty.

(b) A member of a Navy or Marine Corps reserve component on active duty or inactive-duty training.

(c) A member of a Navy or Marine Corps reserve component not on duty but eligible under the provisions of 10 U.S.C. 6148. In general, such a Navy or Marine Corps member who is eligible for care in Navy facilities under the provisions of Subpart C of Part 728 of this chapter, is also eligible for care at facilities other than Navy.

(d) A member of the Naval Reserve Officers Training Corps who is also a midshipman in the Naval Reserve (regular student) while on active duty.

(e) A member of the Naval Reserve Officers Training Corps who is not a midshipman in the Naval Reserve (contract student) while on active duty.

(f) An applicant for commission or enlistment in the Navy or Marine Corps who suffers an illness or injury while undergoing examination in Navy facilities may be provided emergency medical or dental care.

(g) A dependent of a member of the Navy or Marine Corps is covered by Part 728 of this chapter and SECNAV directives in the 6320 series. (See Part 70 of this title.)

(h) A retired inactive member of the Navy or Marine Corps is eligible for care in uniformed services facilities other than Navy subject to the availability of space and facilities and the capabilities of the medical and dental staff. Such member is also eligible for care in Federal facilities other than those of the uniformed services upon prior approval of the Bureau of Medicine and Surgery. Retired inactive members are not eligible for care in non-Federal facilities except as provided by the Manual of the Medical Department (MANMED), article 11–7(3)(b).

(i) Naval and marine members of the states of the North-Atlantic-Treaty-Organization Status of Forces Agreement (NATO SOFA States) stationed in or passing through the United States in connection with their official duties except personnel carried as trainees under the Grant-Aid Military Assistance Program. Care is limited to that provided in the United States.

(j) A member of a uniformed service of the United States other than the Navy or Marine Corps is not authorized to receive medical attention in non-Navy facilities at Navy expense except under the provisions of MANMED, article 11–7(3)(b). At any naval facility other than a naval hospital when it becomes necessary to refer such a member to a non-Navy facility, authority to do so should be obtained from the member's parent service.

[1] When used with respect to care obtained from sources of medical and dental care other than those operated by the U.S. Government or a foreign government.

Subpart C—Medical and Dental Care in Federal Facilities Other Than Navy

§ 732.21 General.

Eligible personnel as defined in Subpart B of this part may receive medical and dental care at the Navy's expense at Federal facilities other than Navy.

§ 732.22 Uniformed services facilities.

(a) *Authority.* 10 U.S.C. 1074. (For NATO personnel, Department of Defense (DOD) Directive 6310.7.)

(b) *Procedures.* Normally, a naval member in a duty status will receive medical and dental care at the medical facility of the uniformed service which serves the organization to which he is assigned. When away from his duty station such member may receive care upon his own application at the nearest available facility of the uniformed services. An inactive retired member may obtain care, to the extent authorized, in uniformed services facilities other than Navy upon request and presentation of valid identification.

§ 732.23 Federal facilities other than those of the uniformed services.

(a) *Authority.* 10 U.S.C. 6201. (For NATO Personnel, DOD Directive 6310.7.)

(b) *Procedures.* An inactive retired member may obtain care upon prior approval of the Bureau of Medicine and Surgery. Care for other personnel must be requested in advance by letter or message to the Federal facility from the commanding officer of a naval activity who has first ascertained that appropriate facilities of the uniformed services are not available. In an emergency care may be obtained by or on behalf of eligible personnel without the necessity of the written request by direct application to the facility concerned.

Subpart D—Medical and Dental Care in Other Than Federal Facilities

§ 732.31 General.

In certain instances eligible personnel as defined in Subpart B of this part may receive medical and dental care at the Navy's expense at other than Federal facilities. Subpart D sets forth the requirements which must be met before the Navy may pay the expenses of such care. Care in facilities of foreign governments is included in this subpart.

§ 732.32 Emergency situations.

In an emergency, non-Federal medical care may be obtained by or on behalf of eligible personnel without the prior authority covered in § 732.33. An emergency is defined as a situation wherein the need or apparent need for medical or dental attention is such that time does not permit application to a Federal medical or dental facility or obtaining the required authority in advance. Emergency dental care is limited to measures appropriate to relieve pain or to abort infection. Emergency dental care shall not include the furnishing of prosthetic appliances including crowns or inlays, or the use of gold or other precious metals for fillings. As soon as possible, the authorizing officer (§ 732.33) should be provided with a complete report in order that he may make arrangements for transfer of the member to a Federal facility, or to take such other action as may be appropriate. Except as provided in this section, care from non-Federal sources may be provided at Navy expense only when authorized in advance as set forth in this subpart.

§ 732.33 Authorizing officer.

Care from non-Federal sources may be authorized for eligible personnel by the following:

(a) For care within naval districts and river commands, the commandant of the naval district or river command wherein the care is to be provided. (To be exercised through the respective district medical officer, district dental officer, river command medical officer, and staff dental officer.)

(b) For care elsewhere, the commanding officer of each ship or naval activity in the area where the care is to be provided, upon the advice of the medical or dental officer, if available. Authorizations may cover care for transient and detached personnel in the area, as well as members of the command.

§ 732.34 Responsibilities of authorizing officer.

The authorizing officer shall be responsible for appproving or disapproving all requests for authorization of medical or dental care from non-Federal sources. In addition, the commandants, through their district or river command medical and dental officers, shall exercise technical direction over the matters covered in this subpart in all naval activities located geographically within their respective districts. In all other areas similar technical direction shall be exercised by the major area commander through his staff medical or dental officer.

§ 732.35 Nonavailability of Federal facilities.

Before any care from non-Federal sources may be authorized, the authorizing officer must determine that appropriate Navy or other Federal facilities are not available. In determining whether such facilities are available, consideration should be given to the seriousness of the condition requiring attention, the distance to the nearest appropriate Federal facility, the effect on the command of the loss of the member's services if transfer were to be made, the total cost to the Navy if non-Federal sources were to be utilized as against the cost if transfer were to be effected, and to whether the member will be moving shortly to a place where appropriate Federal facilities are available. Authority should not be granted for treatment of more serious conditions for which special Navy or Armed Forces treatment facilities are available or where the future service of the member may depend upon the medical progress of the case.

§ 732.36 Care which may be authorized.

(a) *Medical care.* Includes consultation and treatment provided by physicians or medical facilities as well as medical procedures not involving treatment when directed by the Bureau. Treatment includes hospital care, surgery, nursing, medicine, laboratory, and X-ray services, physical therapy, eye examinations, etc.

(b) *Dental care.* Includes:

(1) All types of treatment rendered to relieve pain and abort infection.

(2) All types of operative or restorative treatment within the scope of subparagraph (1) of this paragraph.

(3) All types of oral surgical treatment within the scope of subparagraph (1) of this paragraph.

(4) Prosthetic treatment rendered to restore extensive loss of masticatory function or the replacement of anterior teeth for esthetic reasons.

(5) Repair of existing dental prosthesis in instances where neglect of the repair would result in unserviceability of the prosthesis.

(6) Any type of treatment rendered as an adjunct to medical care.

(7) All X-rays, drugs, etc. required to accomplish treatment in all the above categories.

§ 732.37 Requests for authorization.

Requests should normally be submitted by letter except in unusual circumstances when message or telephonic requests may be made. Requests should contain the following information concerning the individual:

(a) Name, grade/rate, file/service number.

(b) Duty station, duties if pertinent, whether on leave or liberty. If not on duty, exact period of leave or liberty.

(c) Character and extent of condition requiring treatment including diagnosis.[2]

(d) Whether chronic condition.[2]

(e) Origin or cause of disease or injury.[2]

(f) Professional care needed and probable time required.[2]

(g) Estimated cost.[2]

(h) Probable length of tour at present location.

(i) Professional medical or dental opinion whether transfer to Federal facility practicable.

§ 732.38 Notification of emergency situations.

Within naval districts and river commands, any commanding officer or other responsible naval authority, immediately upon becoming aware that any person who may be eligible under Subpart B of this part is receiving civilian non-Federal medical or dental care, shall notify the commandant of the naval district or river command in which the care is being provided. Such notification shall include the patient's name, grade/rate, file/service number, and all other pertinent available information such as duty station, leave/liberty status, name and location of hospital, and diagnosis.

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[2] In requests for dental care, paragraphs (c) through (g) of this section should be in detailed estimate provided by dentist who will accomplish the work.

Subpart E—Payments, Reports, Collections for Subsistence, and Records

§ 732.41 General.

Bills for care from non-Federal sources should be processed for payment as soon as possible. When settlement cannot be accomplished without unusual delay, the claimant should be advised of the status of the claim. Advice on unusual or questionable cases may be requested of the Bureau of Medicine and Surgery (Code 454).

§ 732.42 Payment for care at Federal facilities.

(a) *By whom.* Payment when requested, except that provided by the Canal Zone Government, will be arranged by the Bureau of Medicine and Surgery upon presentation of appropriate claim by the Federal agency concerned. Approval and payment for care furnished by the Canal Zone Government will be accomplished locally under separate directive.

(b) *Rates.* Payment for inpatient care, except that provided by the Canal Zone Government, will be made at the inpatient rate prescribed by the Bureau of the Budget. Payment for inpatient care and for outpatient care in the Canal Zone Government facilities will be made at the prescribed rate of the Federal agency furnishing the service. For those personnel eligible under this part there is no charge for outpatient care at uniformed services facilities. Care in Army and Air Force facilities for eligible foreign NATO personnel will be on a common-service basis.

§ 732.43 Payment for care in other than Federal facilities.

(a) *Approving and paying officers.* For care furnished within naval districts and river commands, approval of claims shall be accomplished by the appropriate authorizing officer set forth in § 732.33. Payment of the approved claim shall be made by the disbursing officer serving the approving command. For care furnished elsewhere the claim shall be approved by the authorizing officer (§ 732.-33) or if such officer has left the area by another naval command in the area. Normally an authorizing officer leaving the area should make arrangements for approval of the bills prior to his departure.

(b) *Preparation of claims.* Unpaid bills should be prepared in triplicate, itemized to show the dates on or between which services were rendered or supplies furnished, and the nature of and the charge for each item. Receipt of the services or supplies should be acknowledged on the face of the bill, or by separate certificate, by the person receiving treatment, or by an officer having cognizance of the case. Separate bills should be submitted for services of special nurses, anesthetists, or other persons on a fee basis, unless the bill including such services is accompanied by receipts to show that the expenses have been defrayed by the physician, dentist or hospital submitting the bill, or by a statement to the effect that the individual is a full-time employee of the payee. In cases where the expenses have already been paid by an individual including a service member, a claim for reimbursement may be made by the person defraying the expenses by submitting the bills which were paid, either receipted or with other equal evidence of their payment, proof that the claimant paid the bills, and a request for reimbursement. The complete address to which the check is to be mailed should be indicated. The material required above should be forwarded with the form NAVMED–U to the appropriate approving officer.

(c) *Approval/disapproval of claims.* When the required documents have been received by the approving officer, he shall determine whether the bills are payable in whole or in part or whether the claims should be disallowed. Where payment is to be disallowed the claimant should receive a prompt and courteous letter stating the reason for the disallowance. If approvable the officer shall prepare a document containing the following information and forward it to the appropriate disbursing officer for the issuance of a check:

(1) Payee's name and address.
(2) Patient's name and service identification.
(3) Statement that claim is approved for payment.
(4) Statement of the amount payable.
(5) Accounting information.
(6) Dates of service.
(7) If appropriate, statement that NavSandA Form 534, Ration Notice, has been issued.
(8) Date of approval.
(9) Signature of approving officer.

(d) *Amounts payable.* The amounts payable in any case shall be those considered reasonable by the approving officer after taking into consideration all of the facts in the case. Normally payments should be approved at rates generally prevailing within the geographical area where the services or supplies were furnished. Rates specially established by the Veterans' Administration or those used in Medicare should not be considered controlling though they may be considered along with other facts. If, after careful review, any charge is considered excessive, the claimant should be apprised of the conclusion reached and provided an opportunity to voluntarily reduce the amount of the claim. If this does not result in a proper reduction of the bill and the claim is that of a physician or dentist, the difference in opinions should be referred to the grievance committee of the claimant's professional group for an opinion as to the reasonableness of the charge. If satisfactory settlement of any claim cannot be made, it should be forwarded to BUMED for decision. ("Medicare," as referred to in this paragraph, is the medical care provided under 10 U.S.C. 1071–1085.)

(e) *Vouchers.* Public Voucher for Purchases and Services Other Than Personal (Standard Form 1034) shall be used for payment. In addition to the usual requirements all vouchers shall show the name of the patient.

(f) *Appropriation chargeable.* All expenses approved for payment shall be charged as follows:

Appropriation	17--1804.1835 O&MN (enter last digit of appropriate year in blank space).
Object class	259 (Commencing FY 1964). 25 (FY 1962, FY 1963).
Expenditure account No.	77510.
Allotment and activity accounting No.	18/24001.

(g) *Cases involving insurance coverage.* When information is received by the approving officer that an insurance company may also be liable for payment, the following procedures shall be followed:

(1) If it appears that the bill may have been paid in whole or in part, investigate. If it is found that the bill has been paid in full, disallow the claim; if paid in part, pay the balance.

(2) If the bill has not been paid but it appears that it might be paid, the claim should be kept pending for a reasonable period to provide an opportunity for the insurance company to make payment. Reasonable effort should also be made to have the insurance company pay the claim. If after a reasonable time there is difficulty in obtaining payment by the insurance company as evidenced by conferences, correspondence, etc., the claim should be approved for payment.

§ 732.44 Collections for subsistence.

Collections from U.S. Navy and Marine Corps (active and inactive retired) and NATO officers in uniformed services hospitals shall be made locally by the hospitals. Collections from U.S. Navy and Marine Corps officers (active and inactive retired in receipt of retirement pay) in other than uniformed services hospitals at Navy expense shall be made by BUMED after checkage of the officers' accounts. The checkage is accomplished by the submission of NavSandA Form 534, Hospital Ration Notice, by the approving officer. Other collections will be made by BUMED.

§ 732.45 Reports.

(a) *Form NAVMED–U, Report of Medical Treatment, Hospitalization, and Allied Services, MED–6320–2.* This report is required in each case of sickness or injury of any person under Subpart B who receives care from any source other than a Federal facility. The report in triplicate shall be prepared by a naval medical or dental officer, when practicable, or otherwise by the senior officer present. The line-of-duty item 10 and the personal payment certificate on the reverse side should not be completed in any case. Form NAVMED–U is available in the Naval Supply System. Completed forms should be forwarded to the approving officer set forth in § 732.43(a).

(b) *Tortiously liable third party cases.* Paragraph 5 of SECNAV Instruction 5890.12 (see § 750.34 (a)(4) and § 750.35 (d) of this chapter) requires reports of cases wherein a third party may be liable for an injury or disease for which the Navy has furnished medical/dental care. No reports are required where total care does not exceed 1 inpatient day or 4 outpatient treatments. By agreement, cases

involving patients for whom the Navy is responsible in other uniformed services facilities will be reported by the facility. It is anticipated that reports of care in Federal facilities other than those of the uniformed services will be obtained by the investigating officer. When care has been provided at civilian facilities, BUMED has concurred in the arrangements set forth in paragraph 5b of SECNAV Instruction 5890.12 whereby the approving officer (§ 732.43(a)) is to make the necessary report. No copy need be filed in the medical records of the patient. The report should be completed as soon as practicable upon the admission or treatment of a patient if it appears that inpatient care will exceed 1 day or more than 4 outpatient treatments will be furnished. In any event the report required should be based on those facts generated during the execution of responsibilities assigned herein and no further investigation is required solely for the purpose of making this report.

§ 732.46 Records.

Upon completion of each case the approving officer shall forward to BUMED the copies itemized in paragraphs (a) through (e) of this section. Since information on care from non-Federal sources is filed in the patient's Health Record, where documents cover more than one patient, sufficient copies should be forwarded to permit completion of each record.

(a) Copy of the bill.

(b) Copy of NAVMED–U.

(c) Copy of authorization, if any.

(d) Copy of approval document or disapproval action.

(e) Copies of correspondence or other pertinent documents in cases which, in the judgment of the approving officer, are controversial or of a problem nature, and will furnish BUMED with information which might be used to improve the administration of the program.

(R.S. 161, secs. 5031, 6201–6203, 70A Stat. 278, 387, as amended; 5 U.S.C. 22, 10 U.S.C. 5031, 6201–6203)

By direction of the Secretary of the Navy.

[SEAL] W. C. MOTT,
Rear Admiral, U.S. Navy, Judge Advocate General of the Navy.

JULY 25, 1963.

[F.R. Doc. 63–8012; Filed, July 30, 1963; 8:47 a.m.]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

Civil Aeronautics Board

Effective upon publication in the FEDERAL REGISTER, paragraph (r) is added to § 6.337 as set out below.

§ 6.337 Civil Aeronautics Board.

* * * * *

(r) Chief, Public Information Section.

(R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] MARY V. WENZEL,
Executive Assistant to the Commissioners.

[F.R. Doc. 63–8017; Filed, July 30, 1963; 8:48 a.m.]

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

Office of Emergency Planning

In F.R. Doc. 63–7771 filed July 23, 1963, the headnote of § 6.321, which was designated "Office of Emergency Management" should be designated "Office of Emergency Planning".

(R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] MARY V. WENZEL,
Executive Assistant to the Commissioners.

[F.R. Doc. 63–8018; Filed, July 30, 1963; 8:48 a.m.]

Chapter II—Employment and Compensation in the Canal Zone

PART 201—GENERAL

Change in Exclusions

Effective upon publication in the FEDERAL REGISTER subparagraph (4) of § 201.100(a) is amended by deleting the phrase "constables and other employees of the magistrates' courts of the Canal Zone Government" so that the subparagraph will read as follows:

§ 201.100 Exclusions.

* * * * *

(a) The following positions and the incumbents thereof, are excluded from all of the provisions of the Act, except section 16 thereof, and the regulations in this chapter.

* * * * *

(4) The magistrates.

CYRUS R. VANCE,
Secretary of the Army.

[F.R. Doc. 63–8004; Filed, July 30, 1963; 8:45 a.m.]

PART 202—FILLING POSITIONS

Noncompetitive Appointments

Effective upon publication in the FEDERAL REGISTER §§ 202.14 and 202.15 are amended as follows:

§ 202.14 Noncompetitive appointments.

(a) Appointing officers may noncompetitively appoint a current Federal employee who has a merit status, a competitive status, or who is serving probation at the time of appointment. Appointing officers may noncompetitively reappoint a former Federal employee who has a merit status, a competitive status, or who was serving probation at the time of separation. Eligibility for such reappointment will be subject to the following conditions:

(1) Former Federal employees who have never completed the service requirement for Canal Zone Career appointment or for career appointment in the competitive service may be reappointed only within three (3) years following the date of their separation. This time limit shall not apply to former employees entitled to veteran preference.

(2) Former employees who have once completed the service requirement for Canal Zone Career appointment or for career appointment in the competitive service may be reappointed without time limitation.

(b) Subject to the following conditions, appointing officers may noncompetitively appoint an individual who is certified by the Director of the Peace Corps as having served satisfactorily as a Volunteer or Volunteer Leader under the Peace Corps Act:

(1) Appointment is effected within 1 year after the individual completes service under the Peace Corps Act, except that such period may be extended to not more than 3 years in the case of a person who, following his Peace Corps service, is engaged in military service, in the pursuit of studies at a recognized institution of higher learning, or in other activities which, in the view of the appointing officer, warrant extension.

(2) The individual passes such examination as the Board may prescribe.

§ 202.15 Tenure following noncompetitive appointment.

(a) The noncompetitive appointment of a current or former Federal employee who has not completed the service requirement for Canal Zone Career appointment or career appointment in the competitive service shall be made as a Canal Zone Career-Conditional appointment. The appointment shall be automatically converted to a Canal Zone Career appointment upon completion of the service requirement. A merit status shall be acquired upon satisfactory completion of any required probationary period.

(b) The noncompetitive appointment of a former or current Federal employee who has once completed the service requirement for Canal Zone Career appointment or for career appointment in the competitive service shall be made as a Canal Zone Career appointment.

(c) Former or current Federal employees who did not complete any required probationary periods prior to noncompetitive appointment shall be required to serve a probationary period of one year following appointment.

(d) The noncompetitive appointment of a Volunteer or Volunteer Leader under the Peace Corps Act shall be made as a Canal Zone Career-Conditional appointment; shall be subject to satisfactory completion of a probationary period of 1 year; and shall be automatically converted to a Canal Zone Career ap-

pointment upon completion of the service requirement. A merit status shall be acquired upon satisfactory completion of probation.

CYRUS R. VANCE,
Secretary of the Army.

[F.R. Doc. 63-8005; Filed, July 30, 1963; 8:45 a.m.]

Title 7—AGRICULTURE

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

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 724—BURLEY, FLUE-CURED, FIRE-CURED, DARK AIR-CURED, VIRGINIA SUN-CURED, CIGAR-BINDER (TYPES 51 AND 52), CIGAR-FILLER AND BINDER (TYPES 42, 43, 44, 53, 54, AND 55), AND MARYLAND TOBACCO

1. The subpart heading preceding § 724.51 is changed to read as follows:

Subpart—Burley, Flue-Cured, Fire-Cured, Dark Air-Cured, Virginia Sun-Cured, Cigar-Binder (Types 51 and 52), Cigar-Filler and Binder (Types 42, 43, 44, 53, 54, and 55), and Maryland Tobacco Allotment and Marketing Quota Regulations, 1963–64 and Subsequent Marketing Years

[Amdt. 3]

2. The table of contents of this subpart is hereby given in its entirety for convenience of the user. Text of certain sections listed herein is not carried.

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3. Sections 724.50, 724.51 and 724.52 are amended to read as follows:

§ 724.50 Basis and purpose.

(a) This amendment to this subpart (27 F.R. 8397, 9211, 10743) is issued to revise §§ 724.50, 724.51, 724.52, 724.65, and 724.67 for clarification and to avoid a duplication, to delete the text contained in § 724.54 for clarification, and to add §§ 724.80 through 724.110 to cover marketings of tobacco.

(b) The regulations contained in this subpart are issued pursuant to the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.), and govern the establishment of farm acreage allotments and normal yields, the issuance of marketing cards for tobacco marketing quota and price support eligibility purposes, the identification of marketings of tobacco, the collection and refund of penalties, and the records and reports incident thereto for burley, flue-cured, fire-cured, dark air-cured, Virginia sun-cured, cigar-binder (types 51 and 52), cigar-filler and binder (types 42, 43, 44, 53, 54 and 55), and Maryland tobacco for the 1963–64 and subsequent marketing years. The regulations shall apply to the 1963–64 and subsequent marketing years and shall remain in effect until amended, superseded, or cancelled, except that allotments shall not be determined for any year for any kind of tobacco for which the Secretary is not required to announce a national marketing quota under section 312(a) of the Act, and the regulations in §§ 724.80 through 724.110 shall not apply for any year for any kind of tobacco for which marketing quotas have been disapproved in a referendum. The regulations for the kinds of tobacco covered in these regulations for marketing years prior to the 1963–64 marketing year (Burley, Flue-Cured, Fire-Cured, Dark Air-Cured and Virginia Sun-Cured, Part 725; Cigar-Binder (types 51 and 52) and Cigar-Filler and Binder (types 42, 43, 44, 53, 54, and 55), Part 723; and Maryland, Part 727) were issued on an annual basis and shall remain in full force and effect for the marketing years for which they were issued. Prior to preparing the regulations in this part, public notice (27 F.R. 7034, 28 F.R. 6231) was given in accordance with the Administrative Procedure Act (5 U.S.C. 1001–1011). The data, views and recommendations pertaining to the regulations in this part which were submitted have been duly considered within the limits permitted by law.

(c) Since farmers are about to begin marketings of tobacco produced in 1963, it is hereby found and determined that compliance with the 30-day effective date provision of the Administrative Procedure Act is impractical and contrary to the public interest. Therefore, the regulations in this amendment shall become effective upon the date of filing with the Director, Office of the Federal Register.

§ 724.51 Definitions.

As used in this subpart and in all instructions, forms and documents in connection therewith, the words and phrases defined in this section shall have the meanings herein assigned to them unless

the context or subject matter otherwise requires. References contained herein to other parts of this chapter or title shall be construed as references to such parts and any amendments now in effect or later issued.

(a) The provisions of Parts 718 and 719 of this chapter, including definitions, are hereby incorporated in these regulations unless the context or subject matter or the provisions of these regulations otherwise require.

(b) "Act" means the Agricultural Adjustment Act of 1938, as amended.

(c) "Base period" means the five calendar years immediately preceding the year for which farm acreage allotments are currently being established.

(d) "Buyers Corrections Account" means the account required to be kept by the auction warehouseman of any tobacco purchased at auction by the buyer, but not delivered to the buyer, or any tobacco returned by the buyer because of rejection by the buyer, lost ticket, or any other valid reason, and which is turned back to the warehouseman and supported by an adjustment invoice from the buyer. Buyers Corrections Account shall include from each adjustment invoice the pounds and amounts deducted resulting from short baskets and short weights, and pounds and amounts added resulting from long baskets and long weights, which buyers debit or credit to the warehouseman and support with adjustment invoices.

(e) "Carryover tobacco" means tobacco produced prior to the current calendar year which has not been marketed or otherwise disposed of prior to the beginning of the marketing year for the current crop.

(f) "Current year" means the calendar year for which acreage allotments are being established, or tobacco history acreage and normal yields are being determined, or the farm is being considered under the provisions of the marketing quota program.

(g) "Director" means the Director, or Acting Director, Farmer Programs Division, Agricultural Stabilization and Conservation Service, United States Department of Agriculture.

(h) "Dealer" or "buyer" means a person who engages to any extent in the business of acquiring tobacco from producers.

(i) "Discount variety" means any of the flue-cured tobacco seed varieties designated as Coker 139, Coker 140, Coker 316, Reams 64, or Dixie Bright 244, or a mixture or strain of such seed varieties, or any breeding line of flue-cured tobacco seed varieties, including, but not limited to, 187-Golden Wilt (also designated by such names as No-Name, XYZ, Mortgage Lifter, Super XYZ), having the quality and chemical characteristics of the seed varieties designated as Coker 139, Coker 140, Coker 316, Reams 64, or Dixie Bright 244: *Provided,* That where there is growing in a field off-type plants of not more than two percent, such off-type plants shall not be considered in determining the flue-cured tobacco variety being produced. Flue-cured tobacco which is not determined to be discount variety shall be considered as "acceptable variety". Any breeding line of flue-cured tobacco identified as having appearance and growth characteristics similar to Coker 139, Coker 140, Coker 316, Reams 64, or Dixie Bright 244, shall be considered to have the quality characteristics of Coker 139, Coker 140, Coker 316, Reams 64, or Dixie Bright 244.

(j) "Floor sweepings" means scraps of tobacco or leaves, other than bundles, of tobacco which accumulate on a warehouse floor in the regular course of business which is sold in the untied form in which acquired, and sales and resales of such tobacco.

(k) "Hogshead warehouseman" means a person who engages in the business of receiving and storing Maryland tobacco for producers and who assists producers in the sale of such tobacco.

(l) "Leaf account tobacco" means all tobacco purchased by or for the account of a warehouse, regardless of whether it is whole or parts of leaves or bundles, and, in addition, tobacco other than floor sweepings, which accumulates on the warehouse floor and is gathered up by the warehouseman for sale, and sales and resales of such tobacco, including tobacco from Buyers Corrections Account. Scrap tobacco obtained through grading tobacco for farmers, or furnishing farmers curing or stripping space, and floor sweepings purchased from another warehouseman or dealer, shall be considered leaf account tobacco.

(m) "Market" means the disposition of tobacco in raw or processed form by voluntary or involuntary sale, barter, or exchange, or by gift inter vivos. "Marketing" and "marketed" shall have corresponding meanings to the term "market".

(n) "Marketing year" means (i) for flue-cured tobacco, the period beginning July 1 of the year in which the tobacco is produced and ending June 30 of the following year; (ii) for other kinds of tobacco, the period beginning October 1 of the year in which the tobacco is produced and ending September 30 of the following year.

(o) "Marketing recorder" or "field assistant" means any employee of the United States Department of Agriculture, or any employee of an Agricultural Stabilization and Conservation Service (ASCS) county office, whose duties involve the preparation and handling of records and reports pertaining to the identification of marketings of tobacco, and shall include any other person authorized on MQ–78, Warehouse Organization and Authorization to Issue Memoranda of Sale, to issue sale memos in the absence of a marketing recorder.

(p) "New farm" means a farm for which there is no tobacco history acreage during the base period. If, in accordance with applicable law and regulations, no tobacco acreage allotment was determined for the farm for any year of the base period, any production of tobacco on such farm during the base period shall not be considered in determining whether the farm is a new farm. The term "tobacco history acreage" as used in this paragraph shall be as defined and explained in § 724.55.

(q) "Nonwarehouse sale" means any first marketing of tobacco other than by a warehouse sale.

(r) "Old farm" means a farm on which there is tobacco history acreage in one or more years of the base period. If, in accordance with applicable law and regulations, no tobacco acreage allotment was determined for the farm for any year of the base period, any production of tobacco on such farm during the base period shall not be considered in determining whether the farm is an old farm. The term "tobacco history acreage" as used in this paragraph shall be as defined and explained in § 724.55.

(s) "Pound" means that amount of tobacco which, if weighed in its unstemmed form and in the condition in which it is usually marketed by producers, would equal one pound standard weight.

(t) "Resale" means the disposition by sale, barter, exchange, or gift inter vivos, of tobacco which has been marketed previously.

(u) "Sale date" means the date on which the gross amount of the sales price of a first marketing of tobacco is determined.

(v) "Sale day" means the period at the end of which the warehousemen bills to buyers the tobacco purchased by them during such period.

(w) "Scrap tobacco" means the residue which accumulates in the course of preparing tobacco for market, consisting chiefly of portions of tobacco leaves and leaves of poor quality.

(x) "Suspended sale" means any first marketing of tobacco at a warehouse sale for which a sale memo from an MQ–76, MQ–76–D, or MQ–77 is not issued by the end of the sale day on which such marketing occurred.

(y) "Tobacco" means each one or all, as indicated by the context, of the kinds of tobacco listed in this paragraph, comprising the types specified, as classified in Service and Regulatory Announcement No. 118 (Part 30 of this title) of the former Bureau of Agricultural Economics of the United States Department of Agriculture.

(1) Burley tobacco, type 31;

(2) Flue-cured tobacco, types 11, 12, 13, and 14;

(3) Fire-cured tobacco, type 21;

(4) Fire-cured tobacco, types 22, 23, and 24;

(5) Dark air-cured tobacco, types 35 and 36;

(6) Virginia sun-cured tobacco, type 37;

(7) Maryland tobacco, type 32;

(8) Cigar-binder tobacco, types 51 and 52;

(9) Cigar-filler ad binder tobacco, types, 42, 43, 44, 53, 54, and 55. As used herein "cigar tobacco" means the latter two kinds (items (8) and (9)).

(z) "Tobacco available for marketing" means all tobacco produced on a farm including carryover tobacco, which has not been marketed or otherwise disposed of.

(aa) "Trucker" means a person who engages to any extent in the business of trucking or hauling tobacco for producers to a point where it may be marketed

or otherwise disposed of in the form and in the condition in which it is usually marketed by producers.

(bb) "Warehouseman" means a person who engages in the business of holding sales of tobacco at public auction.

(cc) "Warehouse sale" means a marketing of tobacco by a sale at public auction through a warehouse in the regular course of business, and shall include all lots or baskets of tobacco marketed by sale at public auction in sequence at a given time. If a basket of burley or flue-cured farm tobacco exceeds the established basket weight limitation (700 pounds in the case of burley tobacco and 300 pounds in the case of flue-cured tobacco) any overage of not more than 10 percent which is recorded on the same floor sheet as the parent basket of which the overage would otherwise be a part, shall be considered and reported as a warehouse sale of tobacco when the parent basket is sold at auction.

§ 724.52 Extent of determinations, computations and rule for rounding fractions.

If rounding is prescribed herein, computations shall be carried to two decimal places beyond the number of decimal places required, and digits of 50 or less beyond the required number of decimal places shall be dropped; if 51 or more, the last required decimal place shall be increased by 1.

(a) *Allotments.* Farm acreage allotments shall be determined in hundredths and any allotment of less than 0.01 acre shall be increased to 0.01 acre. For example, 2.5536 equals 2.55; 2.5550 equals 2.55; 2.5551 equals 2.56; 2.5582 equals 2.56; and 0.0001 equals 0.01.

(b) *Percent excess.* The percentage of excess tobacco available for marketing from a farm, hereinafter referred to as the "percent excess", shall be expressed in tenths percent and calculations thereof rounded to the nearest tenth percent. For example, 6.732 percent would be 6.7 percent; 6.750 percent would be 6.7 percent; 6.751 percent would be 6.8 percent; and 6.782 percent would be 6.8 percent.

(c) *Converted rate of penalty.* The amount of penalty per pound upon marketings of tobacco subject to penalty, hereinafter referred to as the "converted rate of penalty", shall be expressed in tenths of a cent and calculations thereof rounded to the nearest tenth of a cent, except that if the resulting converted rate of penalty is less than a tenth of a cent, it shall be expressed in hundredths of a cent and calculations thereof rounded to the nearest hundredth of a cent. For example, expressions in tenths calculated as 6.732 cents would be 6.7 cents; 6.751 cents would be 6.8 cents; and 6.782 cents would be 6.8 cents and expressions in hundredths calculated as 0.0536 cent would be 0.05 cent; 0.0550 cent would be 0.05 cent; 0.0551 cent would be 0.06 cent; and 0.0582 cent would be 0.06 cent.

(d) *Amount of penalty.* The amount of penalty on any lot of tobacco marketed shall be expressed in dollars and cents and calculations thereof rounded to the nearest cent. For example, $10.5536 would be $10.56; $10.5550 would be $10.55; $10.5551 would be $10.56; and $10.5582 would be $10.56.

4. Section 724.54 is deleted and the number reserved for future use.

5. Section 724.58 is amended to read as follows:

§ 724.58 Time for making reduction of acreage allotment for violation of the marketing quota regulations for a prior marketing year.

Any reduction made with respect to a farm's acreage allotment for the current year for any of the reasons provided for in § 724.98, excluding subparagraph (c), shall be made no later than (a) April 1 of the current year in the States of Alabama, Florida, Georgia, North Carolina, South Carolina and Virginia; or (b) May 1 of the current year in all other States. If the reduction cannot be made by such dates for the current year, the reduction shall be made with respect to the acreage allotment next established for the farm, but no later than by corresponding dates in a subsequent year: *Provided, however,* That no reduction shall be made in the acreage allotment for any farm for a violation if the acreage allotment for such farm for any prior year was reduced on account of the same violation.

6. "§ 724.58(b)" where it appears in § 724.65(a) is changed to "§ 724.98(g)" and "(see § 724.58)" where it appears in § 724.67(q) is changed to "(see § 724.98)".

7. The following new §§ 724.80 through 724.110 are hereby added to this subpart in their proper numerical sequence.

§ 724.80 Identification of kinds of tobacco.

(a) Any tobacco (1) that has similar appearance and growth characteristics while growing in a field on a farm, or (2) any cured tobacco that has the same characteristics and corresponding qualities, colors and lengths of a kind and type designated under the definition of "tobacco" shall be considered such kind and type without regard to any factors of historical or geographical nature which cannot be determined by examination of the tobacco.

(b) For the purpose of discovering and identifying tobacco subject to marketing quotas the term "tobacco" with respect to any farm located in an area in which one or more of a kind and type of tobacco named in the definition of "tobacco" is normally produced shall include all acreage of tobacco on a farm, unless the county committee with the approval of the State committee (1) determines all or a part of such acreage should not be considered as either one of such kinds of tobacco under subparagraph (a), or (2) determines from satisfactory proof furnished by the operator of the farm that a part or all of the production of such acreage has been certified by the Agricultural Marketing Service under the Tobacco Inspection Act (7 U.S.C. 511), and regulations issued pursuant thereto, as a kind of tobacco not subject to marketing quotas. Any amount of tobacco so determined as a kind and type of tobacco not subject to marketing quotas shall be converted to acres on the basis of the average yield per harvested acre of tobacco grown on the farm for the purpose of determining the harvested acreage of such kind of tobacco produced on the farm.

§ 724.81 Supervisory authority of ASC State committee.

The State committee may take any action required by these regulations which has not been taken by a county committee. The State committee may also (a) correct, or require a county committee to correct, any action taken by a county committee which is not in accordance with these regulations, or (b) require a county committee to withhold taking any action which is not in accordance with these regulations.

§ 724.82 Disposition of excess tobacco.

(a) *Where tobacco acreage exceeds the allotment.* (1) The farm operator may dispose of excess tobacco prior to the marketing from the farm of any of the same kind of tobacco by furnishing to the county committee proof satisfactory to the committee that such excess tobacco will not be marketed. Such disposition of excess tobacco, subject to the provisions of subparagraphs (2) and (3) of this paragraph, may take place before harvesting, during harvesting, or after completion of harvesting of the kind of tobacco involved from the farm.

(2) No credit toward liquidating excess acreage shall be given for any excess tobacco disposed of after harvest, but prior to marketing, unless the county committee determines such tobacco is representative of the entire crop from the farm of the kind of tobacco involved.

(3) Acreage of partially harvested (cropped) flue-cured tobacco may not be disposed of unless: (i) The farm operator was not notified by the county office manager of the amount of excess flue-cured tobacco acreage on the farm before the harvesting of the flue-cured tobacco was begun, and (ii) the county committee, in agreement with the farm operator, determines (*a*) that not more than 50 percent of the tobacco produced on the area to be disposed of has been harvested, and (*b*) the percentage of unharvested flue-cured tobacco remaining on such area. Credit for excess acreage disposed of in the field shall be equal to the acreage in the area from which disposition is made multiplied by the agreed-upon percent of unharvested tobacco in the area.

(b) *Harvested acreage.* The harvested acreage from a farm shall not include harvested acreage disposed of under this section.

§ 724.83 Farm marketing quota and excess tobacco.

(*a*) *Marketing quota.* The marketing quota for a farm shall be the actual production of tobacco on the farm acreage allotment. The actual production on the farm acreage allotment shall be the average yield per acre of the entire acreage of tobacco harvested on the farm times the farm acreage allotment.

(b) *Excess tobacco.* The excess tobacco on any farm for the current year shall be (1) that quantity of tobacco

which is equal to the average yield per acre of the entire acreage of tobacco harvested on the farm times the number of acres harvested in excess of the farm acreage allotment, plus (2) any carryover excess tobacco.

(c) *Transfer of farm marketing quota.* There shall be no transfer of farm marketing quotas except as provided in § 724.67 of this subpart and § 719.12 of this chapter.

§ 724.84 Determination of discount varieties.

(a) *Producer's report.* (1) For each farm on which flue-cured tobacco is produced in the current year, the farm operator or any producer on the farm shall file with the county office a report on MQ–32, Certification of Flue-Cured Tobacco Varieties Planted, showing whether or not discount variety tobacco was planted on the farm.

(2) If the farm operator or any producer on a farm certifies on MQ–32 that there was not planted on the farm any discount variety of flue-cured tobacco, all of the flue-cured tobacco produced on such farm shall be determined by the county committee to be acceptable variety tobacco, unless a subsequent determination is made by the county committee or State committee that tobacco produced on the farm is discount variety tobacco.

(3) If the farm operator or any producer on a farm certifies on MQ–32 that there was planted on the farm any discount variety of flue-cured tobacco, all of the flue-cured tobacco produced on such farm shall be determined by the county committee to be discount variety tobacco, unless a subsequent determination is made by the county committee, or State committee, that tobacco produced on the farm is acceptable variety tobacco.

(b) *Right to examine growing varieties.* To assist in making a determination as to whether discount variety tobacco is being produced on a farm, the farm operator or any producer on the farm shall allow any member of the county committee or State committee, or any employee of the ASCS State office, or any employee of the Department of Agriculture designated by the State executive director, as a person qualified to examine and identify seed varieties of flue-cured tobacco, to enter upon the farm (1) to examine the appearance and growth characteristics of flue-cured tobacco plants on the farm, (2) to take and remove from the farm samples of flue-cured tobacco growing on or harvested from the farm, (3) to designate representative flue-cured tobacco plants on the farm to be allowed to go to flower, and (4) to take photographs of representative flue-cured tobacco plants.

(c) *Failure to file report or permit examination.* If the operator of a farm on which flue-cured tobacco is being produced in the current year fails or refuses, within 7 days after a request of the county committee on MQ–34–1, Notice of Action Required Regarding Determination of Seed Varieties of Flue-Cured Tobacco, (1) to file a report on MQ–32, showing whether or not there was planted any of the discount varieties of flue-cured tobacco on such farm, or (2) to permit examination of flue-cured tobacco plants in each field or area on the farm, or (3) to permit, not to exceed 50 representative plants to go to flower in each field or area on the farm, or (4) to permit the taking of photographs of flue-cured tobacco in each field or area on the farm, or (5) to permit the taking and removal of green or cured leaf samples of flue-cured tobacco from the farm, all flue-cured tobacco produced on such farm shall be determined by the county committee to be discount variety tobacco, unless the county committee finds that failure to comply with the request was due to circumstances beyond the control of the farm operator.

(d) *Notice to farm operator.* In any case where the county committee determines that discount variety tobacco is being or was produced on a farm, the farm operator shall be given written notice by certified mail of such determination on MQ–32–2, Notice of Determination of Discount Variety Flue-Cured Tobacco. The notice to the farm operator shall constitute notice to all persons who as owner, operator, landlord, tenant, or sharecropper, are interested in the tobacco being grown on the farm.

(e) *Producer's right of appeal.* Any producer on a farm who believes that the discount variety determination for his farm by the county committee is not correct, may file an appeal with the county committee asking it to reconsider such determination. The request for appeal and facts constituting a basis for such reconsideration must be submitted in writing and postmarked or delivered to the county committee within 7 days after the date of mailing the notice on MQ–34–2. The request for appeal must be signed by the person making the appeal. If the appellant believes that the county committee's determination on his appeal is not correct, he may appeal to the State committee within 7 days after the date of mailing of the notice of the decision of the county committee. The decision of the State committee shall be final.

(f) *State committee decision final.* Any discount variety determination by the county committee may be reviewed by the State committee, whose decision shall be final.

§ 724.85 Issuance of marketing cards.

A marketing card for use in identifying each kind of tobacco shall be issued for each current year for each farm having tobacco available for marketing. The kind of card to be issued shall be determined pursuant to this section. Cards shall be issued in the name of the farm operator, except that cards issued for tobacco grown for experimental purposes only shall be issued in the name of the experiment station; cards issued to a successor-in-interest shall be issued in the name of the successor-in-interest; and, where a part of a farm which includes all the tobacco acreage on the farm is cash rented to one producer, cards shall be issued in the name of the one producer.

(a) *Person authorized to issue marketing cards.* The county office manager shall be responsible for the issuance of marketing cards. Each marketing card shall bear the actual or facsimile signature of the county office manager who issued the card.

(b) *Rights of producers and successors-in-interest.* (1) Each producer having a share in the tobacco available for marketing from a farm shall be entitled to the use of the marketing card for marketing his proportionate share.

(2) Any person who succeeds, other than as a dealer, in whole or in part to the share of a producer in the tobacco available for marketing from a farm, shall, to the extent of such succession, have the same rights to the use of the marketing card and assume the same liability for penalties as the original producer.

(c) *Within quota marketing card.* A within quota marketing card, MQ–76 (eligible for price support), shall be issued for each kind of tobacco for which there is no excess tobacco available for marketing, or the percent excess is zero, except that:

(1) An excess marketing card, MQ–77 (ineligible for price support), showing zero penalty, shall be issued, if at the time of the issuance of the marketing card:

(i) There is excess tobacco of another kind of tobacco which was produced on the same farm in the same current year; or,

(ii) All excess tobacco has been disposed of in accordance with § 724.82, and in compliance with the time of notification provisions of and in the manner prescribed in Part 718 of this chapter, but not before harvest, unless the county committee determines the producer's failure to dispose of his excess tobacco prior to harvest was because of conditions beyond his control.

(iii) Any kind of tobacco produced on land owned by the Federal Government is within the allotment for the farm, but in violation of a lease restricting the production of tobacco.

(2) A discount variety within quota marketing card, MQ–76–D (eligible for limited price support), shall be issued for any farm having discount variety tobacco available for marketing.

(3) A within quota marketing card (MQ–76 or MQ–76–D), shall be issued to identify tobacco grown for experimental purposes only by a publicly-owned experiment station.

(d) *Marketing cards for flue-cured tobacco grown by publicly-owned experiment stations.* An MQ–76–D marketing card may be issued to a publicly-owned experiment station prior to or simultaneous with the issuance of an MQ–76 marketing card in case there is both discount variety and acceptable variety flue-cured tobacco available for marketing.

(e) *Excess marketing card.* An excess marketing card, MQ–77 (ineligible for price support) showing the converted rate of penalty shall be issued for each kind of tobacco for which there is excess tobacco available for marketing and the percent excess exceeds zero percent. In the case of flue-cured tobacco, an excess marketing card and the sale names contained therein shall be clearly marked or stamped "Discount Variety" or "Acceptable Variety", whichever is applicable. The percent excess and the con-

verted rate of penalty shall be determined in accordance with § 724.86, except that an excess marketing card showing the full rate of penalty shall be issued:

(1) For each kind of tobacco for which no farm acreage allotment was established, or for which an allotment was established and later cancelled, or,

(2) For each kind of tobacco for which the farm operator or another producer on the farm prevents the county committee from obtaining information necessary to determine the correct acreage of tobacco on the farm.

MARKETING OR OTHER DISPOSITION OF TOBACCO AND PENALTIES

§ 724.86 Extent to which marketings from a farm are subject to penalty.

(a) *Farms having no carryover tobacco.* Marketings of tobacco from a farm having no carryover tobacco shall be subject to penalty by the percent excess determined by dividing the excess acreage of tobacco by the harvested acreage of tobacco for the farm.

(b) *Farms having carryover tobacco.* Marketings of tobacco from a farm having carryover tobacco shall be subject to penalty by the percent excess determined as follows:

(1) (i) Determine the number of "carryover" acres by dividing the number of pounds of carryover tobacco from the prior year by the normal yield for the farm for that year.

(ii) Reduce such "carryover" acres by the amount determined by subtracting the harvested acreage from the allotment in the current year.

(iii) If the "carryover" acres is entirely off-set by the underharvested acreage, no penalty will be due on marketings, and the remainder of paragraph (b) will be inapplicable.

(2) Determine the number of "within quota carryover acres" by multiplying the "carryover acres" (subparagraph (1) (i), or (ii), when determined, of this paragraph) by the "percent within quota" (i.e., 100 percent minus the percent excess) for the year in which the carryover tobacco was produced.

(3) Determine the "total acres" of tobacco by adding the "carryover acres" (subparagraph (1) of this paragraph) and the acreage of tobacco harvested in the current year.

(4) Determine the "excess acres" by subtracting from the "total acres" (subparagraph (3) of this paragraph) the sum of the current year allotment and the "within quota carryover acres" (subparagraph (2) of this paragraph).

(5) Determine the percent excess by dividing the "total acres" into the "excess acres" (subparagraph (4) of this paragraph).

(c) *Converted rate of penalty.* For the purpose of determining the penalty due on each marketing by a producer of tobacco subject to penalty, the converted rate of penalty per pound shall be determined by multiplying the applicable rate of penalty for the current crop by the percent excess obtained under paragraph (a) or (b) of this section.

§ 724.87 Debt stamping and replacing marketing cards.

(a) *Stamping to show indebtedness.* (1) If any producer on a farm is indebted to the United States and such indebtedness is listed on the county debt record, any within quota marketing card (MQ–76 or MQ–76–D) issued for the farm shall bear the notation "Indebted to U.S." on the front cover thereof and on each Sale Memo therein. The amount and type of the indebtedness and the name of the debtor shall be entered on the inside back cover of the card. A notation showing indebtedness to the U.S. shall constitute notice to any warehouseman, hogshead warehouseman, or loan organization that, subject to prior liens, the net proceeds from any price support loan due the debtor shall be paid to the United States to the extent of the indebtedness shown. The acceptance and use of a marketing card bearing a notice and information of indebtedness to the United States shall not constitute a waiver by the producer of any right to contest the validity of such indebtedness by appropriate administrative appeal or legal action and shall not necessitate a producer accepting a price support advance from which such indebtedness would be deductible.

(2) Any marketing card may be stamped for the purpose of notifying warehousemen, hogshead warehousemen, or loan organizations, that the tobacco being marketed pursuant to such card is subject to a lien held by the United States.

(b) *Replacing, exchanging, or issuing additional marketing cards.* (1) Subject to the approval of the county office manager, two or more marketing cards may be issued for any farm. Upon the return to the ASCS county office of a marketing card, which has been used in its entirety and before the marketing of tobacco from the farm has been completed, a new marketing card of the same kind, bearing the same name, information and identification as the used card shall be issued for the farm. A new marketing card of the same kind shall be issued to replace a card which has been determined by the county office manager who issued the card to have been lost, destroyed, or stolen.

(2) Except with respect to publicly-owned experiment stations, (i) where an excess flue-cured marketing card (MQ–77) stamped or marked "Discount Variety" is issued for any farm, it may be exchanged at the county office for an excess flue-cured marketing card (MQ–77), stamped or marked "Acceptable Variety" for flue-cured tobacco, or (ii) where a within quota discount variety flue-cured marketing card (MQ–76–D) is issued for any farm it may be exchanged at the county office for a within quota marketing card (MQ–76) for flue-cured tobacco, in cases when the operator establishes to the satisfaction of the county committee that there has been no commingling or substitution of discount variety flue-cured tobacco with any other flue-cured tobacco produced on the farm or any other farm operated by him, and that all discount variety flue-cured tobacco has been marketed or satisfactorily disposed of, or accounted for, including any carryover discount variety of flue-cured tobacco.

§ 724.88 Invalid cards.

(a) *Reasons for being invalid.* A marketing card shall be invalid if:

(1) It is not issued or delivered in the form and manner prescribed;

(2) An entry is omitted or is incorrect;

(3) It is lost, destroyed, stolen, or becomes illegible; or,

(4) Any erasure or alteration has been made and not properly initialed.

(b) *Validating invalid cards.* If any entry is not made on a marketing card as required, either through omission or incorrect entry, and the proper entry is made and initialed by the county office manager who issued the card, or by a marketing recorder, then such card shall become valid.

(c) *Returning invalid cards.* In the event any marketing card becomes invalid (other than by loss, destruction, or theft, or by omission, alteration, or incorrect entry, which has not been corrected by the county office manager who issued the card, or by a marketing recorder), the farm operator, or the person having the card in his possession, shall return it to the ASCS county office at which it was issued.

§ 724.89 Misuse of marketing card.

Any information which causes a marketing recorder, a member of a State, county, or community committee, or an employee of an ASCS State or county office to believe that any tobacco which actually was produced on one farm has been or is being marketed under the marketing card issued for another farm, shall be reported immediately by such person to the ASCS county or State office.

§ 724.90 Identification of marketings, excluding cigar tobacco.

(a) *Sale memo and bill of nonwarehouse sale.* Subject to paragraph (b) of this section, each marketing of tobacco from a farm shall be identified by an executed sale memo from the marketing card issued for the farm. In addition, each nonwarehouse sale, except sales through a hogshead warehouse, shall be identified by an executed bill of nonwarehouse sale (reverse side of sale memo), and such bills of nonwarehouse sale shall be delivered to a marketing recorder or other person who is authorized to issue sale memos.

(b) *Suspended sales and sale without marketing card.* Any suspended sale, which is not identified by a properly executed sale memo on or before the last warehouse sale day of the marketing season, or within four weeks after the date of marketing, whichever comes first, shall be identified by MQ–82, Sale Without Marketing Card, as a marketing of excess tobacco. Form MQ–82 shall be executed only by a marketing recorder or other representative of the State executive director.

(c) *Other persons authorized to execute sale memos.* (1) A warehouseman or a hogshead warehouseman, who has been authorized during the current mar-

keting year on MQ–78—Tobacco, Warehouse Organization and Authorization to Issue Memoranda of Sale, may issue a sale memo to identify sale by a farmer if a marketing recorder is not available at the warehouse when the marketing card is presented. Each such sale memo issued by him shall be presented promptly by him to the marketing recorder for verification with the warehouse records.

(2) In the case of Maryland tobacco, a tobacco dealer who buys tobacco direct from farmers, who resells such tobacco through a hogshead tobacco warehouse, and who has been authorized on MQ–78—Tobacco to issue sale memos, may issue the form covering a purchase of such tobacco only if the bill of nonwarehouse sale has been executed.

(3) Any warehouseman, hogshead warehouseman, or dealer, who engages in the business of acquiring scrap tobacco from farmers, and who has been authorized on MQ–78, may issue a sale memo covering a purchase of scrap tobacco if the bill of nonwarehouse sale has been executed.

(d) *Verification of sale memos.* Any person authorized on MQ–78 to issue sale memos shall promptly present to a marketing recorder, for verification, any sale memos executed by him in the absence of a marketing recorder.

(e) *Withdrawal of approval to issue sale memos.* The authorization on MQ–78 for persons to issue sale memos may be withdrawn by the State executive director if such action is determined to be necessary in order to properly enforce the regulations in this subpart.

(f) *Recording names of additional producers.* The marketing recorder shall enter on the "county copy" of the sale memo, the name of any person shown on the floor sheet whose last name is not shown on the marketing card.

(g) *Verification of penalty by warehousemen or dealers.* Each sale memo for excess tobacco issued by a marketing recorder shall be verified by a warehouseman or dealer to determine whether the amount of penalty shown to be due has been correctly computed and such warehouseman or dealer shall not be relieved of any liability with respect to the amount of penalty due because of any error which may occur in executing the sale memo.

(h) *Separate display on auction warehouse floor.* Any warehouseman upon whose floor more than one kind of tobacco is offered for sale at public auction shall for each different kind of tobacco:

(1) Display it in separate areas on the auction warehouse floor.

(2) Identify each basket by a distinguishably different basket ticket clearly showing the kind of tobacco.

(3) Make and keep records that will insure a separate accounting and reporting of each of such kinds of tobacco sold at auction over the warehouse floor.

§ 724.91 Identification of marketings for cigar tobacco.

(a) *Marketing card and sale memo for cigar tobacco.* If a sale of producer's cigar tobacco to a buyer is not identified with a marketing card (MQ–76 or MQ–77) issued for the farm, including a sale memo from MQ–77, where such card was issued, by the end of the sale date and recorded and reported on MQ–79 (CF&B), Buyer's Record, by the tenth day of the calendar month next following the month during which the sale date occurred, the marketing shall be identified on MQ–79 (CF&B) as a marketing of excess tobacco and reported not later than the tenth day of the calendar month next following the month during which the sale date occurred.

(b) Each excess sale memo issued by a buyer shall be verified by the buyer to determine whether the amount of penalty shown to be due has been correctly computed and such buyer shall not be relieved of any liability with respect to the amount of penalty due because of any error which may occur in issuing the sale memo.

§ 724.92 Rate of penalty.

Marketings of each kind of excess tobacco from a farm shall be subject to a penalty per pound equal to seventy-five (75) percent of the average market price for the kind of tobacco for the immediately preceding marketing year as determined by the Crop Reporting Board, Statistical Reporting Service, United States Department of Agriculture.

(a) *Average market price.* The average market price as determined by the Crop Reporting Board for the 1962–63 marketing year was:

AVERAGE MARKET PRICE

Kind of tobacco:	*Cents per pound*
Burley	58.5
Flue-cured	60.1
Fire-cured (type 21)	38.8
Fire-cured (types 22, 23, and 24)	38.7
Dark air-cured	36.2
Virginia sun-cured	37.4
Cigar-filler and binder (types 42, 43, 44, 53, 54, and 55)	29.0
Cigar-binder (types 51 and 52)	48.5
Maryland	[1]

[1] Will be issued by amendment to these regulations.

(b) *Rate of penalty per pound.* The penalty per pound upon marketings of excess tobacco subject to marketing quotas during the 1963–64 marketing year shall be:

RATE OF PENALTY

Kind of tobacco	*Cents per pound*
Burley	0.44
Flue-cured	.45
Fire-cured (type 21)	.29
Fire-cured (types 22, 23, and 24)	.29
Dark air-cured	.27
Virginia sun-cured	.28
Cigar-filler and binder (types 42, 43, 44, 53, 54, and 55)	.22
Cigar-binder (types 51 and 52)	.36
Maryland	[1]

[1] Will be issued by amendment to these regulations.

§ 724.93 Persons to pay penalty.

The persons to pay the penalty due on any marketing of tobacco subject to penalty shall be determined as follows:

(a) *Warehouse sale.* The penalty due on marketings by a producer through a warehouse sale shall be paid by the warehouseman who may deduct an amount equivalent to the penalty from the price paid to the producer.

(b) *Nonwarehouse sale.* (1) The penalty due on marketings by a producer through a hogshead warehouse shall be paid by the hogshead warehouseman who may deduct an amount equivalent to the penalty from the price paid to the producer, and (2) the penalty due on tobacco purchased directly from a producer, other than through a hogshead warehouse or by a warehouse sale shall be paid by the purchaser of the tobacco who may deduct an amount equivalent to the penalty from the price paid to the producer.

(c) *Cigar tobacco sold without excess sale memo or within quota card identification.* The penalty due on marketings of cigar tobacco by a producer which, as to excess tobacco, are not identified by a valid sale memo, and, as to within quota tobacco, a within quota card, by the end of the sale date shall be presumed, subject to rebuttal, to be marketings of excess tobacco. The penalty thereon shall be paid by the buyer who may deduct an amount equivalent to the penalty from the amount due the producer.

(d) *Marketings outside the United States.* The penalty due on marketings by a producer directly to any person outside the United States shall be paid by the producer.

§ 724.94 Penalties considered to be due from warehousemen, hogshead warehousemen, dealers, buyers and others excluding the producer.

Any marketing of tobacco under any one of the following conditions shall be considered to be a marketing of excess tobacco.

(a) *Warehouse sale without memorandum of sale.* Any warehouse sale of tobacco by a producer which is not identified by a valid sale memo on or before the last warehouse sale day of the marketing season, or within four weeks following the date of marketing, whichever comes first, shall be identified by an MQ–82, and shall be presumed, subject to rebuttal, to be a marketing of excess tobacco. The penalty thereon shall be paid by the warehouseman.

(b) *Nonwarehouse sale.* Any nonwarehouse sale of tobacco, except cigar tobacco and sales by producers of Maryland tobacco sold through the hogshead market, which:

(1) Is not identified by a valid bill of nonwarehouse sale (reverse side of sale memo); and

(2) Is not also identified by a valid sale memo and recorded on MQ–79, Dealer's Record, not later than the end of the calendar week in which the tobacco was purchased; or,

(3) If purchased prior to the opening of the local auction market for the current year, is not identified by a valid sale memo and recorded in MQ–79 not later than the end of the calendar week which includes the first sale day of the local auction markets, shall be presumed, subject to rebuttal, to be a marketing of excess tobacco. The penalty thereon

shall be paid by the purchaser of such tobacco.

(c) *Leaf account tobacco.* The part or all of any marketing of tobacco by a warehouseman which such warehouseman represents to be a leaf account resale, but which when added to prior leaf account resales is in excess of prior leaf account purchases, recognizing and including appropriate adjustments for short baskets and short weights and long baskets and long weights from the Buyers Corrections Account, shall be considered to be a marketing of excess tobacco, unless and until such warehouseman furnishes proof acceptable to the State committee showing that such marketing is not a marketing of excess tobacco. The penalty thereon shall be paid by the warehouseman.

(d) *Dealer's tobacco.* The part or all of any marketing of tobacco, except cigar tobacco, by a dealer, including purchases and resales at a hogshead warehouse, which such dealer represents to be a resale, but which when added to prior resales by such dealer is in excess of the total of his prior purchases, shall be considered to be a marketing of excess tobacco, unless and until such dealer furnishes proof acceptable to the State committee showing that such marketing is not a marketing of excess tobacco. The penalty thereon shall be paid by the dealer.

(e) *Resales not reported.* Any resale of tobacco which is required to be reported by a warehouseman or dealer, but which is not so reported within the time and in the manner required, shall be considered to be a marketing of excess tobacco, unless and until such warehouseman or dealer furnishes a report of such resale, which is acceptable to the State executive director. The penalty thereon shall be paid by the warehouseman or dealer who fails to make the report as required.

(f) *Unrecorded sale of cigar tobacco.* Any sale of cigar tobacco which is not recorded on MQ–79 (CF&B), Buyer's Record Book, by the tenth day of the month next following the month during which the sale date occurred, shall be presumed, subject to rebuttal, to be a marketing of excess tobacco. The penalty thereon shall be paid by the buyer who fails to make the record.

(g) *Marketings falsely identified by a person other than the producer.* If any marketing of tobacco by a person other than the producer thereof is identified by a marketing card other than the marketing card issued for the farm on which such tobacco was produced, such marketing shall be presumed, subject to rebuttal, to be a marketing of excess tobacco. The penalty thereon shall be paid by such person.

§ 724.95 Producers penalties; false identification; failure to account; cancelled allotments.

(a) *Penalties for false identification or failure to account.* (1) If any producer falsely identifies or fails to account for the disposition of any tobacco produced on a farm, an amount of tobacco equal to the normal yield of the number of acres harvested in the current year in excess of the farm acreage allotment shall be deemed to have been marketed as excess tobacco from such farm. The penalty thereon for false identification or failure to account shall be paid by the producer and shall be due on the date of the false identification or failure to account and credit shall be allowed for penalty paid on marketings. Failure of a producer to return a marketing card or to otherwise account to the satisfaction of the county committee for his tobacco production, shall constitute a failure to account for the disposition of tobacco produced on the farm. The filing of a report by a producer under § 724.98(i), which the State committee finds to be incomplete or incorrect, or the failure to file such a report, shall constitute a failure to account for the disposition of tobacco produced on the farm.

(2) If any producer who manufactures tobacco products from tobacco produced by or for him fails to make the reports or makes a false report required under § 724.98(h), he shall be deemed to have failed to account for the disposition of tobacco produced on the farm(s) involved. The filing of a report by a producer under § 724.98(h), which the State committee finds to be incomplete or incorrect shall constitute a failure to account for the disposition of tobacco produced on the farm.

(b) *Cancelled allotment.* If part or all of the tobacco produced on a farm has been marketed, and the allotment for the farm is cancelled, any penalty due on the marketings shall be paid by the producer.

§ 724.96 Payment of penalty.

(a) *Date due.* Penalties shall become due at the time the tobacco is marketed, except that (1) in the case of tobacco removed from storage under bond penalty shall be due on the date of such removal from storage, or (2) in the case of false identification or failure to account for disposition of tobacco, the penalty shall be due on the date of such false identification or failure to account for disposition. The penalty shall be paid by remitting the amount thereof to the ASCS State office not later than the end of the calendar week in which the tobacco becomes subject to penalty, except that for cigar tobacco, the penalty shall be paid not later than the tenth day of the calendar month next following the month in which the tobacco becomes subject to penalty. A draft, money order, or check drawn payable to the Agricultural Stabilization and Conservation Service, may be used to pay any penalty, but any such draft or check shall be received subject to payment at par.

(b) *Warehouse sale—net proceeds.* If the penalty due on any warehouse sale of tobacco by a producer is in excess of the net proceeds of such sale (gross amount for all lots included in the sale less usual warehouse charges), the amount of the net proceeds accompanied by a copy of the warehouse bill covering such sale may be remitted as the full penalty due. Usual warehouse charges shall not include (1) advances to producers, (2) charges for hauling, or (3) any other charges not usually incurred by producers in marketing tobacco through a warehouse.

(c) *Nonwarehouse sale — converted penalty rate.* Nonwarehouse sales shall be subject to the converted rate of penalty for the farm on which the tobacco was produced and shall be paid in full even though the penalty may exceed the proceeds for the sale of tobacco.

§ 724.97 Request for return of penalty.

Any producer of tobacco, after the marketing of all tobacco available for marketing from the farm and any other person who bore the burden of the payment of any penalty, may request the return of the amount of such penalty which is in excess of the amount required to be paid. Such request shall be filed on MQ–85 with the ASCS county office within two years after the payment of the penalty. Approval of return of penalty to producers shall be by the county committee, subject to the approval of the State executive director.

RECORDS AND REPORTS

§ 724.98 Producer's records and reports.

(a) *Report of tobacco acreage.* The farm operator or any producer on the farm shall execute and file a report with the ASCS county office or a representative of the county committee on Form ASCS–578, Report of Acreage, showing all fields of tobacco on the farm in the current year. If any producer on a farm files or aids or acquiesces in the filing of any false report with respect to the acreage of tobacco grown on the farm, even though the farm operator or his representative refuses to sign such report, the allotment next established for such farm and kind of tobacco shall be reduced, except that such reduction for any such farm shall not be made if it is established to the satisfaction of the county and State committees that (1) the filing of, aiding, or acquiescing in the filing of, such false report was not intentional on the part of any producer on the farm, and that no producer on the farm could reasonably have been expected to know that the report was false, provided the filing of the report will be construed as intentional unless the report is corrected and the payment of all additional penalty is made, or (2) no person connected with such farm for the year for which the allotment is being established caused, aided, or acquiesced in the filing of the false acreage report.

(b) *Report of tobacco grown for experimental purposes.* For farms on which tobacco is being grown for experimental purposes only, the Director of a publicly-owned Agricultural experiment station shall furnish, each current year, the ASCS State office, prior to the beginning of the harvesting of tobacco from any farm on which experimental tobacco is being grown, a report showing the following information with respect to each kind of tobacco and farm on which tobacco is grown for experimental purposes only:

(1) Name and address of the publicly owned experiment station;

(2) Name of the owner, and name of the operator if different from the owner, of each farm on which tobacco is grown for experimental purposes only;

(3) The amount of acreage of tobacco grown on each farm for experimental purposes only; and,

(4) A certification signed by the Director of the publicly-owned agricultural experiment station to the effect that such acreage of tobacco was grown on each farm for experimental purposes only, the tobacco was grown under his direction, and the acreage on each plot was considered necessary for carrying out the experiment.

(c) *Report of flue-cured tobacco varieties planted.* The operator of each farm, or any producer thereon, on which flue-cured tobacco is planted in the current year, shall execute and file a report with the county office on MQ–32, Certification of Flue-Cured Tobacco Varieties Planted, which shall clearly state whether a discount variety was planted on the farm in the current year. If the farm operator or any producer thereon has executed and filed a report with the county office on MQ–32, which shows there was not planted on such farm(s) in the current year, any of the discount varieties of flue-cured tobacco, and the operator or a producer on the farm wishes to change the MQ–32 to show there was planted on such farm(s) a discount variety, he may, at anytime prior to the issuance of a marketing card for the farm, be permitted to file a new MQ–32 which shall supersede and replace the first MQ–32.

(d) *Harvesting second crop tobacco from same acreage.* If, in the same calendar year more than one crop of tobacco was grown from (1) the same tobacco plants, or (2) different tobacco plants, and is harvested for marketing from the same acreage of a farm, the acreage allotment next established for such farm shall be reduced by an amount equivalent to the acreage from which more than one crop of tobacco was so grown and harvested.

(e) *Cancellation of new farm allotment.* Any new farm allotment approved under this subpart which was determined by the county committee on the basis of incorrect information knowingly furnished the county committee by the applicant for the new farm allotment shall be cancelled by the county committee as of the date the allotment was established.

(f) *False identification.* If tobacco was marketed or was permitted to be marketed in any marketing year as having been produced on the acreage allotment for any farm which, in fact, was produced on a different farm, the acreage allotments next established for both such farms and kind of tobacco shall be reduced, except that such reduction for any such farm shall not be made if it is established to the satisfaction of the county and State committees that (1) no person on such farm intentionally participated in such marketing or could have reasonably been expected to have prevented such marketing, provided, the marketing shall be construed as intentional, unless all tobacco from the farm is accounted for and payment of all additional penalty is made, or (2) no person connected with such farm for the year for which the allotment is being established caused, aided, or acquiesced in such marketing.

(g) *Report on marketing card.* The operator of each farm on which tobacco is produced shall return to the ASCS county office each marketing card issued for the farm whenever marketings from the farm are completed, and, in no event, later than (1) June 1 of next calendar year after issuance of the card in the case of cigar tobacco, (2) October 1 of next calendar year after issuance of the card in the case of Maryland tobacco, and (3) for all other kinds of tobacco not later than thirty days, in the year of issuance of the card, after the close of the tobacco auction markets for the locality in which the farm is located. Failure to return the marketing card within fifteen days after written request by certified mail from the county office manager shall constitute failure to account for disposition of all tobacco marketed from the farm unless disposition of tobacco marketed from the farm is otherwise accounted for to the satisfaction of the county committee. Upon failure to satisfactorily account to the county committee for disposition of tobacco marketed from the farm the allotment next established for such farm and kind of tobacco shall be reduced, except that such reduction for any such farm shall not be made if it is established to the satisfaction of the county committee and a representative of the State committee, that the failure to furnish such proof of disposition was unintentional and no producer on such farm could reasonably have been expected to furnish such proof of disposition, provided, such failure will be construed as intentional unless such proof of disposition is furnished and payment of all additional penalty is made, or no person connected with such farm for the year for which the allotment is being established caused, aided, or acquiesced in the failure to furnish such proof. As to each MQ–76 issued for Maryland tobacco, and for each MQ–77 issued for any kind of tobacco, at the time the marketing card is returned to the ASCS county office, there shall be shown on each card the quantity of tobacco on hand, if any, including the crop year produced and its location. The card shall be signed by the farm operator.

As to each MQ–76 for cigar tobacco, at the time the marketing card is returned to the ASCS county office, the Record of Sales form on the card shall be signed by the farm operator.

(h) *Reports by producer-manufacturers.* (1) Each producer who manufactures tobacco products from tobacco produced by or for him as a producer, shall report, as to each farm on which such tobacco is produced, to the ASCS State office as follows with respect to such tobacco.

(i) If the harvested acreage is within the allotment, the producer-manufacturer shall furnish the ASCS State office a report, as soon as all the tobacco from the farm has been weighed, showing the total pounds of tobacco produced, the date(s) on which such tobacco was weighed, the farm serial number of the farm on which it was produced, and the estimated value of such tobacco.

(ii) If the harvested acreage is in excess of the allotment, the producer-manufacturer shall furnish the ASCS State office a report, as soon as all the tobacco from the farm has been weighed, showing the total pounds of tobacco produced on the farm, the date(s) on which the tobacco was weighed, the farm serial number of the farm on which it was produced, the estimated value of the tobacco, and the location of the tobacco. If the required reports are not made, penalty shall be paid on the tobacco by the producer-manufacturer, at the converted rate of penalty shown on the marketing card issued for the farm, when it is moved from the place where it can be conveniently inspected by the county committee at anytime separate and apart from any other tobacco.

(2) If the producer-manufacturer has excess tobacco and does not pay the penalty thereon at the converted rate of penalty shown on the marketing card, he shall notify in writing the buyer of the manufactured produet, or the buyer of any residue resulting from processing the tobacco, at time of sale of such product or residue, of the precise amount of penalty due on such manufactured product or residue. In such event, the producer-manufacturer shall immediately notify the State executive director and shall account for the disposition of such tobacco by furnishing the State executive director a report on a form to be furnished by him, showing the name and address of the buyer of the manufactured products or residue, a detailed account of the disposition of such tobacco and the exact amounts of penalty due with respect to each such sale of such products or residue, together with copies of the written notice of the exact amounts of the penalty due given to the buyer of such products or residue. Failure to file such report, or the filing of a report which is found by the State committee to be incomplete or incorrect, shall be considered failure of the producer-manufacturer to account for the disposition of tobacco produced on the farm and the allotment next established for the farm shall be reduced for such failure, except that such reduction for any such farm shall not be made if it is established to the satisfaction of the county and State committees, that (i) the failure to furnish such report of disposition was unintentional and the producer-manufacturer on such farm could not reasonably have been expected to furnish such report of disposition, provided, such failure will be construed as intentional unless such report of disposition is furnished and payment of all additional penalty is made, or (ii) no person connected with such farm for the year for which the allotment is being established caused, aided, or acquiesced in the failure to furnish such report. The producer-manufacturer shall be liable for the payment of penalty.

(i) *Report of production and disposition.* In addition to any other reports which may be required by this subpart, the operator on each farm, or any producer on the farm (even though the harvested acreage does not exceed the acreage allotment or even though no allotment was established for the farm), shall, upon written request by certified mail from the State executive director,

within fifteen days after deposit of such request in the United States mail, addressed to such person at his last known address, furnish the Secretary on MQ–108, Report of Production and Disposition, a written report of the acreage, production and disposition of all tobacco produced on the farm by sending the same to the ASCS State office showing, as to the farm at the time of filing such report, (1) the number of fields (patches or areas) from which tobacco was harvested, the acres of tobacco harvested from each such field, and the total acreage of tobacco harvested from the farm, (2) the total pounds of tobacco produced, (3) the amount of tobacco on hand and its location, (4) as to each lot of tobacco marketed, the name and address of the warehouseman, dealer, or other person to or through whom such tobacco was marketed and the number of pounds marketed, the gross price and the date of the marketing, and (5) complete details as to any tobacco disposed of other than by sale. Failure to file the MQ–108 as requested, the filing of a false MQ–108, or the filing of an MQ–108 which is found by the State committee to be incomplete or incorrect, shall constitute failure of the producer to account for disposition of tobacco produced on the farm and the allotment next established for such farm and kind of tobacco shall be reduced, except that such reduction for any such farm shall not be made if it is established to the satisfaction of the county and State committees that (i) the failure to furnish such proof of disposition was unintentional and no producer on such farm could reasonably have been expected to furnish such proof of disposition, provided, such failure will be construed as intentional and unless such proof of disposition is furnished and payment of all additional penalty is made, or (ii) no person connected with such farm for the year for which the allotment is being established caused, aided, or acquiesced in the failure to furnish such proof.

(j) *Amount of allotment reduction.* The amount of reduction in the allotment for the current year for a violation described in paragraph (a), (f), (g), (h), or (i) shall be that percentage which the amount of tobacco involved in the violation is of the respective farm marketing quota for the farm for the year in which the violation occurred. Where the amount of such tobacco involved in the violation equals or exceeds the amount of the farm marketing quota, the amount of reduction shall be 100 percent. The quantity of tobacco determined by the county committee to have been falsely identified, or produced on acreage falsely omitted from an ASCS–578 as filed, or for which the county committee determines that proof of disposition has not been furnished, shall be considered as the amount of tobacco involved in the violation. If the actual quantity of tobacco falsely identified, or produced on acreage falsely omitted from ACSC–578, or for which proof of disposition has not been furnished is known, such quantity shall be determined by the county committee to be the amount of tobacco involved in the violation. If (1) the actual quantity of tobacco produced on acreage falsely omitted from an ASCS–578, or for which proof of disposition has not been furnished is not known, or (2) if the actual total production of tobacco on the farm is not known, the county committee shall determine such actual quantity or such total production and the farm marketing quota in the following manner. The yield per acre and the total production of tobacco on the farm shall be determined by taking into consideration the condition of the tobacco crop during production, if known, and the actual yield per acre of tobacco on other farms in the locality on which the soil and other physical factors affecting the production of tobacco are similar: *Provided,* That the determination of the total production of tobacco on the farm shall not exceed the harvested acreage of tobacco on the farm multiplied by the average actual yield on farms in the locality on which the soil and other physical factors affecting the production of tobacco are similar. The yield per acre and the total production of tobacco for the farm as so determined by the county committee shall be deemed to be the actual yield per acre, and the actual total production of tobacco for the farm. The actual yield per acre of tobacco on the farm as so determined by the county committee multiplied by the farm acreage allotment shall be deemed to be the actual production of the acreage allotment and the farm marketing quota. Where the actual quantity of tobacco for which proof of disposition has not been furnished is not known, such quantity shall be determined by the county committee to be the quantity of tobacco remaining after deducting from the total production of tobacco on the farm determined as aforesaid, the quantity of tobacco for which proof of disposition has been furnished. Where the actual quantity of tobacco produced on acreage falsely omitted from an ASCS–578 is not known, such quantity shall be determined by the county committee to be the quantity resulting from multiplying the yield per acre for the farm determined as aforesaid by the acreage falsely omitted from the ASCS–578 as filed.

(k) *Allotment reductions for combined farms.* If the farm involved in the violation is combined with another farm prior to the reduction, the reduction shall be applied as heretofore provided in this section to that portion of the allotment for which a reduction is required.

(l) *Allotment reduction for divided farms.* If the farm involved in the violation has been divided prior to the reduction, the reduction shall be applied as heretofore provided in this section to the allotments for the divided farms required to be reduced.

§ 724.99 Warehouseman's records and reports.

(a) *Record of marketing.* (1) Each warehouseman shall keep such records as will enable him to furnish the ASCS State office with respect to each warehouse sale and for each kind of tobacco made at his warehouse the following information:

(i) The name of the operator of the farm on which the tobacco was produced and the name of the seller, in the case of a sale by a producer, and in the case of a resale, the name of the seller.

(ii) Date of sale.

(iii) Number of pounds sold.

(iv) Amount of any penalty and the amount of any deduction on account of penalty from the price paid the producer(s); and, in addition, with respect to each individual basket or lot of tobacco constituting the warehouse sale, the following information:

(v) Name of purchaser.

(vi) Number of pounds sold.

(vii) Gross sale price.

(2) Records of all purchases and resales of tobacco by the warehouseman shall be maintained to show a separate account for:

(i) Nonwarehouse sales by farmers of tobacco purchased by or on behalf of the warehouseman.

(ii) Purchases and resales of leaf account tobacco.

(iii) Resales of floor sweepings.

(3) Each warehouseman shall keep such records as will enable him to furnish the ASCS State office the total pounds and amounts of the debits (for short baskets and short weights of tobacco) and the credits (for long baskets and long weights of tobacco) to the Buyers Corrections Account. Where the warehouseman returns to the seller tobacco debited to the Buyers Corrections Account, the warehouseman shall prepare an adjustment invoice to the seller. This invoice shall be the basis for a credit entry for the warehouse in the Buyers Corrections Account and a corresponding purchase (debit entry) in the case of a dealer on his MQ–79, Dealer's Record. If an auction warehouse maintains a daily summary of bill-outs, the balancing figure reflected thereon, if any, shall not be included in the Buyers Corrections Account.

(4) Any warehouseman or any other person who grades tobacco for farmers shall maintain records which will enable him to furnish the ASCS State office the name of the farm operator and the approximate amount of scrap tobacco obtained from the grading of tobacco from each farm.

(5) Any warehouseman or any other person who provides tobacco curing space or stripping space for farmers shall maintain records which will enable him to furnish the ASCS State office the name of the farm operator and the approximate amount of scrap tobacco obtained from each farm resulting from providing such space.

(6) In the case of resales for dealers, the name of the dealer making each resale, and in the case of resales for the warehouse, the name of the applicable warehouse account shall be shown on the warehouse records so that the individual lots of tobacco sold can be identified.

(b) *Identification of producer sales of tobacco.* (1) *Floor Sheet.* The serial number of the marketing card shall be recorded by the auction warehouseman on his office copy of the auction warehouse floor sheet covering an auction sale of tobacco by a producer, and, in

the case of flue-cured tobacco, such entry shall be recorded prior to the time the tobacco is offered for sale.

(2) *Check register.* The serial number of the warehouse bill(s) shall be recorded by the warehouseman on the check register or check stub for the check written covering an auction sale of tobacco by a producer.

(3) *Marketing card cover.* The serial number of the warehouse bill(s) shall be recorded on the inside front cover of the marketing card by the market recorder or warehouseman for each sale memo issued covering a sale of tobacco by a producer.

(c) *Sale memo and bill of nonwarehouse sale.* A record in the form of a valid sale memo or an MQ–82, Sale Without Marketing Card, shall be obtained by a warehouseman to cover each marketing of tobacco from a farm through a warehouse and each nonwarehouse sale of tobacco purchased by or for the warehouseman. For a nonwarehouse sale of tobacco purchased by or for a warehouseman, no sale memo shall be issued unless the bill of nonwarehouse sale on the reverse side of the sale memo is executed. Any warehouseman or any other person who obtains possession of any scrap tobacco in the course of grading tobacco from any farm and any warehouseman who obtains possession of any scrap tobacco as a result of providing curing space or stripping space for farmers, shall obtain a bill of nonwarehouse sale and a sale memo to cover the amount of such scrap tobacco.

(d) *Suspended sale record.* Any warehouse bills covering first marketing of farm tobacco for which sale memos have not been issued at the end of the sale day shall be presented to a market recorder who shall stamp such bills "Suspended" and write thereon the serial number of the suspended sale, and record the bills on MQ–80, Daily Auction Warehouse Report: *Provided,* That, if a market recorder is not available, the auction warehouseman may stamp such bills "Suspended" and deliver them to a market recorder when one is available.

(e) *Warehouseman's entries on dealer's record.* Each warehouseman shall record, or have the dealer record, on MQ–79, the total purchases and resales made by each such dealer or other warehouseman during each sale day at a warehouse and, regardless of who makes the entries, the warehouseman shall enter his initials in the space provided. If any tobacco resold by the dealer is tobacco bought by him from a crop produced prior to the current crop, the entry on MQ–79 shall clearly show such fact.

(f) *Record and report of purchases and resales.* Each warehouseman shall keep a record and make reports on MQ–79, Dealer's Record, showing:

(1) All purchases of tobacco directly from producers other than at public auction through a warehouse (nonwarehouse sales).

(2) All purchases and resales of tobacco at public auction through warehouses other than his own.

(3) All purchases of tobacco from dealers other than warehousemen and resales of tobacco to dealers other than warehousemen.

(4) Resales of floor sweepings separately from leaf account tobacco. MQ–79 shall be prepared and a copy forwarded to the ASCS State office not later than the end of the calendar week in which such tobacco was purchased or resold: *Provided,* That, if tobacco is purchased prior to the opening of the local auction market, an MQ–79 shall be prepared and a copy forwarded to the ASCS State office not later than the end of the calendar week which would include the first sale day of the local auction markets. A remittance for all penalties shown by the entries on MQ–79 and on the sale memos to be due, shall be forwarded to the ASCS State office with the original copy of MQ–79.

(g) *Identification of flue-cured leaf account tobacco as acceptable variety and reports on MQ–79–1, Flue-Cured.* (1) Whenever the Director determines there is a significant amount of discount variety tobacco available for marketing in any marketing year ,he may cause to be initiated the provisions of this paragraph (g). In addition, the Director may terminate any action initiated hereunder when he determines no discount variety of flue-cured tobacco remains available for sale during the remainder of the current marketing season. Notification to warehousemen of action required under this paragraph (g) shall be by the State executive director.

(2) Each warehouseman who offers for auction sale any leaf account flue-cured tobacco on a warehouse floor other than his own, and who requests the other warehouseman to identify such tobacco as being "acceptable variety", shall either (i) execute MQ–79–1 (Flue-Cured), Dealer's Certification-Resale Tobacco, or (ii) have the eligibility of such tobacco to be so identified determined by the State executive director or his representative.

(3) Each warehouseman who is participating in the Commodity Credit Corporation price support program, and who identifies resale tobacco with a "certified" basket ticket indicating that such tobacco, by virtue of an executed MQ–79–1 (Flue-Cured), is of an acceptable variety, shall at the time the tobacco is weighed in have such tobacco covered by an executed MQ–79–1, unless the eligibility of such tobacco to be identified as being of an acceptable variety, is determined by the State executive director or his representative.

(4) Each executed MQ–79–1 (Flue-Cured) shall show the following information with respect to each lot of resale tobacco:

(i) Crop year.

(ii) Name and address of warehouse where the tobacco is being offered for sale.

(iii) Floor sheet number and date.

(iv) Date and signature of dealer and current address.

(v) Dealer's Record Book number where the resale will be recorded.

(h) *Daily report of auction warehouse business.* Each warehouseman shall prepare and promptly forward at the end of each sale day to the ASCS State office a report on MQ–80, Daily Auction Warehouse Report, showing for each sale day, unless otherwise stated below:

(1) For each dealer or buyer, as originally billed, the total pounds and gross amount of tobacco purchased at auction, and resales at auction on the warehouse floor.

(2) For any association, as originally billed, the total pounds and gross amount of loan tobacco acquired at auction, and resales at auction, if any, on the warehouse floor.

(3) The total pounds and gross amount of all leaf account purchases at auction on the warehouseman's own floor and the total pounds and gross amount of all leaf account resales at auction on the warehouseman's own floor including resales of tobacco from his Buyers' Corrections Account.

(4) The total pounds and gross amount of all resales at auction on the warehouseman's own floor of floor sweepings which accumulated on the warehouseman's own floor.

(5) The sum of the totals for subparagraphs (1), (2), (3), and (4) of this paragraph.

(6) The computed total of first sales at auction on the warehouse floor.

(7) The (i) warehouse gross sales for the day, pounds and amount, as billed to buyers (sum of subparagraphs (1), (2), and (3) of this paragraph), (ii) the amount on warehouse check register, if shown thereon, and (iii) the total of the resales, pounds and amount (sum of subparagraphs (1), (2), (3), and (4) of this paragraph).

(8) On the report for the last sale day for the season, the pounds and estimated value of all tobacco on hand and whether such tobacco represents leaf account tobacco, or floor sweepings which accumulated on the warehouseman's own floor.

(9) For each sale day, if available, otherwise weekly, the sum of the debits and the sum of the credits, pounds and amount, from the Buyer's Corrections Account.

(10) For each warehouse sale of excess tobacco from a farm, the applicable sale memo and numbers thereof with remittance of the penalty due as shown thereon.

(11) As to the information required to be entered on MQ–80, Daily Auction Warehouse Report, by the marketing recorder, the warehouseman shall keep and make available such records as will enable the marketing recorder to enter thereon: (i) For each sale identified by a sale memo or MQ–82, Sale Without Marketing Card, the pounds sold and gross amount; (ii) for each sale suspended the warehouse bill(s) number, pounds sold and gross amount; and (iii) for each sale cleared from suspension, the sale memo number and the date of clearance.

§ 724.100 Hogshead warehouseman's records and reports.

(a) *Record of marketing.* A hogshead warehouseman shall keep such records as will enable him to furnish the ASCS State office the report specified in this section.

(b) *Identification of producer sales.* (1) Except for sales identified by an MQ–82, Sale Without Marketing Card, a hogshead warehouseman shall record the marketing card serial number on the ledger account for each sale by a producer through the warehouse.

(2) A record in the form of a valid sale memo or an MQ–82, Sale Without Marketing Card, shall be obtained by a hogshead warehouseman to cover each marketing of tobacco from a farm through the warehouse. A bill of nonwarehouse sale (reverse side of sale memo) shall not be required to identify a first sale of tobacco through a hogshead warehouse. Any hogshead warehouseman or any other person who obtains possession of any scrap tobacco in the course of grading tobacco from any farm and any hogshead warehouseman who obtains possession of any scrap tobacco as a result of providing curing space or stripping space for farmers shall obtain a bill of nonwarehouse sale and a sale memo to cover the amount of such scrap tobacco.

(c) *Report of hogshead tobacco warehouse business.* (1) Each hogshead tobacco warehouseman shall furnish the ASCS State office a report each quarter, unless requested earlier by the State executive director, of all leaf account tobacco purchased or sold and all floor sweepings sold, if any, through the warehouse, including an MQ–79, Dealer's Record, to show his purchases at the hogshead warehouse when he is requested to so report by the State executive director.

(2) A hogshead tobacco warehouseman shall submit a report each quarter, unless requested earlier by the State executive director, showing for each buyer who purchased tobacco through the warehouse during the period for which the report is submitted, a copy of the bill-out to the buyer together with the following:

(i) Name of farm operator (and name of seller if different from operator) for each sale of farm tobacco.

(ii) Farm serial number of the farm for each sale of farm tobacco.

(iii) Serial number of sale memo executed by the hogshead warehouseman, or MQ–82, Sale Without Marketing Card, executed by a representative of the State committee with respect to each sale of farm tobacco.

(iv) Date of sale.

(v) Hogshead serial number.

(vi) Number of pounds of tobacco in the hogshead.

(vii) Designation as to the year the tobacco in the hogshead was produced.

(viii) A sale memo or an MQ–82, Sale Without Marketing Card, for each sale of farm tobacco.

(ix) A remittance of the penalty due as shown on all sale memos (MQ–77 and MQ–82).

(x) Designation by the word "resale" or supporting statement denoting a resale and the name of the person reselling the tobacco entered on the bill-out for tobacco resold through the hogshead warehouse.

(3) A hogshead tobacco warehouseman shall furnish the ASCS State committee, not later than October 10 of the beginning of each marketing year, a report showing the producer's name (or the name of the dealer in the case of tobacco received from a dealer), the hogshead number and pounds of tobacco in each hogshead received, but which is on hand and unsold as of the close of business on September 30 of the immediately preceding marketing year.

§ 724.101 Dealer's record and reports, excluding cigar tobacco buyers.

Each dealer, except as provided in § 724.102, or any other person as provided in paragraph (e) of this section, shall keep, by kinds of tobacco, the records and make the reports as provided by this section.

(a) *Report of dealer's name, address and registration number.* Each dealer shall properly execute and the marketing recorder (or the dealer if the tobacco is to be marketed through a hogshead tobacco warehouse) shall detach and forward to the ASCS State office "Receipt for Dealer's Record" contained in MQ–79, which is issued to the dealer.

(b) *Record of marketing.* Each dealer shall keep such records as will enable him to furnish the ASCS State office with respect to each lot of tobacco purchased by him the following information:

(1) The name of the warehouse through which the tobacco was purchased in the case of a warehouse sale or hogshead warehouse sale, the name of the operator of the farm on which the tobacco was produced, and the name of the seller in the case of a nonwarehouse sale, including the records and reports for farm scrap tobacco, and the name of the seller in the case of purchases directly from auction warehousemen or other dealers.

(2) Date of purchase.

(3) Number of pounds purchased.

(4) Gross purchase price.

(5) Amount of any penalty and the amount of any deduction on account of penalty from the price paid the producer(s), and as to each lot of tobacco sold by him the following information:

(6) Name of the warehouse or hogshead warehouse through which the tobacco was sold in the case of a warehouse sale,and the name of the purchaser if other than an auction warehouse sale.

(7) Date of sale.

(8) Number of pounds sold.

(9) Gross sale price.

(10) Amount of any penalty and the amount of any deduction on account of penalty from the price paid the producer(s).

(11) In the event of a resale of tobacco bought by him and carried over from a crop produced prior to the current crop, the fact that such tobacco was so bought and carried over.

(c) *Bill of nonwarehouse sale and sale memo.* A bill of nonwarehouse sale and a sale memo from the current year marketing card issued for the farm on which the tobacco was produced shall be obtained by a dealer to cover each purchase of tobacco directly from a producer other than through a warehouse sale or hogshead warehouse sale, including farm scrap tobacco obtained from grading tobacco for farmers or as a result of furnishing farmers curing space or stripping space for their tobacco. No sale memo shall be issued identifying such purchase unless the bill of nonwarehouse sale on the reverse side of the sale memo has been executed. If no marketing card is presented by the producer, the buyer shall record and report the purchase on MQ–79 by entering the sale date, name and address of the farm operator (and the name and address of the person selling the tobacco if other than the farm operator), amount of penalty (total pounds purchased times the applicable rate of penalty per pound as shown in § 724.92), the word "None" in the space for the serial number of the marketing card, pounds of tobacco represented in the purchase and the gross amount. Nonwarehouse purchases shall be recorded by the dealer or the marketing recorder on MQ–79, Dealer's Record, and the marketing recorder shall enter his initials in the space provided.

(d) *Record and report of purchases and resales.* (1) Except as provided in subparagraph (2) of this paragraph, each dealer shall keep a record and make reports on MQ–79, showing all purchases and resales of tobacco made by or for the dealer, and in the event of purchase or resale of tobacco bought from a crop produced prior to the current crop, the fact that such tobacco was bought by him and carried over from a crop produced prior to the current crop.

(2) MQ–79 shall be prepared and a copy forwarded to the ASCS State office not later than the end of the calendar week in which such tobacco was purchased or resold, including the original copy of any spoiled reports, except as follows: (i) If tobacco is purchased prior to the opening of the local auction market, an MQ–79 shall be prepared and a copy forwarded to the ASCS State office not later than the end of the calendar week which would include the first sale day of the local auction markets; (ii) if tobacco is resold in a State other than where produced, and the auction markets at such location open earlier than those where the tobacco would normally be sold at auction by farmers, reports shall be prepared and forwarded not later than the end of the calendar week which would include the first sale day of the local auction market where the resale takes place; (iii) purchases and resales by dealers at the Baltimore hogshead market, shall be reported on MQ–79 whenever the Maryland State executive director determines such to be necessary to enforce the provisions of these regulations.

(e) *Identification of flue-cured resale tobacco as acceptable variety and reports on MQ–79–1 (Flue-Cured).* (1) Whenever the Director determines there is a significant amount of discount variety tobacco available for marketing in any marketing year, he may cause to be initiated the provisions of this paragraph (e). In addition, the Director may terminate any action initiated hereunder when he determines no discount variety of flue-cured tobacco remains available for sale during the remainder of the current marketing season. Notification to dealers of action required under this paragraph (e) shall be by the State executive director.

(2) Each dealer or any other person who offers for auction sale any resale flue-cured tobacco on a warehouse floor which is participating in the Commodity Credit Corporation price support program and on which floor eligible resale flue-cured tobacco is identified with a "certified" basket ticket, and who requests the warehouseman to identify his tobacco as being of an "acceptable variety", shall either (i) execute MQ–79–1 (Flue-Cured), Dealer's Certification-Resale Tobacco, or (ii) have the eligibility of such tobacco to be so identified determined by the State executive director or his representative.

(3) Each executed MQ–79–1 (Flue-Cured) shall show the following information with respect to resale tobacco:

(i) Crop year.

(ii) Name and address of warehouse where the tobacco is being offered for sale.

(iii) Floor sheet number and date.

(iv) Date and signature of dealer and current address.

(v) Dealer's record book number where the resale will be recorded.

(4) Each dealer or any other person who acquires acceptable variety tobacco in a manner which would make it ineligible for certification on MQ–79–1, or who has on hand both discount variety tobacco and acceptable variety tobacco, and desires to dispose of acceptable variety tobacco prior to disposing of the discount variety tobacco, may apply in writing to the State executive director for a special authorization to have the acceptable variety tobacco certified when offered for auction sale.

(5) If any dealer fails to timely file MQ–79, Dealer's Record, or if there is substantial indication that a dealer has executed a false certification on MQ–79–1, the State executive director may notify such dealer and all auction warehouses participating in the Commodity Credit Corporation price support program that certification by such dealer on MQ–79–1 shall not be accepted for the purpose of identifying tobacco offered for auction sale by such dealer as being of acceptable variety until further notice.

(f) *Report to warehousemen for buyers corrections account of tobacco received.* Notwithstanding the provisions of § 724.102, any dealer, buyer, or any other person receiving tobacco from or through a warehouseman at an auction sale or otherwise, which is not invoiced to him or which is incorrectly invoiced to him by the warehouseman, shall furnish the warehouseman an invoice or an adjustment invoice correctly setting forth the pounds and dollars for which he has not been invoiced or for which he has been invoiced incorrectly.

§ 724.102 Dealers exempt from regular records and reports, excluding cigar tobacco buyers.

Any dealer or buyer who does not purchase or otherwise acquire tobacco except at a warehouse sale, hogshead warehouse sale, or directly from dealers other than warehousemen or hogshead warehousemen, and who does not resell in the form in which tobacco ordinarily is sold by farmers more than 10 percent of such tobacco so purchased by him, except for reports under § 724.101(e) for discount variety tobacco, shall not be subject to the other provisions of § 724.101: *Provided, however,* That, any such dealer or buyer who purchases tobacco at nonwarehouse sale, or from a warehouseman other than at a warehouse sale or from a hogshead warehouseman other than at a hogshead warehouse sale, shall be subject to the provisions of § 724.101, with respect to such purchases.

§ 724.103 Cigar tobacco buyer's records and reports.

(a) *Report of buyer's name, address and registration number.* Each buyer shall properly execute, detach, and promptly forward to the ASCS State office "Receipt for Buyer's Record" contained in MQ–79 (CF&B), which is issued to the buyer.

(b) *Record of marketing.* (1) Each buyer, as to each kind of tobacco, shall keep such records as will enable him to furnish the ASCS State office with respect to each sale of tobacco made by producers to such buyer, including tobacco obtained under subparagraph (2) of this subparagraph, the following information:

(i) The name of the operator of the farm on which the tobacco was produced and the name of the seller and the seller's address, in the case of a sale by a person other than the farm operator.

(ii) Date of sale.

(iii) The serial number of the MQ–76 marketing card, or sale memo from an MQ–77, used to identify the sale.

(iv) Number of pounds sold.

(v) Gross sale price.

(vi) Amount of any penalty and the amount of any deduction on account of penalty from the price paid the producer(s).

(2) Any buyer or any other person who grades tobacco for farmers, or who furnishes farmers curing space or stripping space, shall maintain records which will enable him to furnish the ASCS State office the name of the farm operator and the amount of each grade of tobacco obtained from each farm from furnishing such services.

(c) *Identification of sale on marketing card, sale memo, and buyer's record.* Each MQ–76 and each sale memo from an MQ–77 used to identify each sale of tobacco by a producer, including tobacco obtained under paragraph (b)(2) of this section, shall be properly executed by the buyer. The serial number of the MQ–76 marketing card or sale memo from an MQ–77 to identify such tobacco, shall be recorded on the buyer's copy of the MQ–79 (CF&B) and on the check register or check stub for the check written with respect to such tobacco.

(d) *Record and report of purchases of tobacco from producers.* (1) Each buyer shall keep a record and make reports on MQ–79 (CF&B), Buyer's Record, showing, by kinds, all tobacco purchased by or for him from producers, including tobacco obtained under subparagraph (b)(2) of this section. Such record and report shall show for each sale, the sale date, the name of the farm operator (and the name and address of the person selling the tobacco if other than the farm operator), the serial number of the within quota marketing card (MQ–76), and from each excess card (MQ–77), the sale memo number, used to identify the sale, the pounds of tobacco represented in the sale, the gross amount, the rate of penalty shown on the sale memo (MQ–77) and the amount of penalty. If no marketing card is presented by the producer, the buyer shall record and report the purchase as provided above except that the buyer shall enter the word "none" in the space for the serial number of the marketing card (MQ–76), or sale memo (MQ–77), the applicable rate of penalty per pound shown in § 724.92, in the space for rate of penalty, and shall show the name and address of the seller in the space for the seller's name.

(2) The original of MQ–79 (CF&B), excess sale memos (MQ–77), and a remittance for all penalty shown by the entries on MQ–79 (CF&B) and on the excess sale memos (MQ–77) to be due shall be forwarded to the ASCS State office not later than the tenth day of the calendar month next following the month during which the sale date occurred.

(e) *Record of buyer's disposition of cigar tobacco.* Each buyer shall maintain records which will show, by kinds of tobacco, the disposition made by him of all tobacco purchased by or for him from producers, including tobacco obtained under paragraph (b)(2) of this section.

§ 724.104 Cigar tobacco buyers and loan organizations not exempt from regular records and reports.

No buyer shall be exempt from keeping the records and making the reports required in this part. Any "loan" organization which receives tobacco from producers for the purpose of (a) selling it for the producer, or (b) placing it under the Commodity Credit Corporation price support program, shall keep the records, make the reports, and remit penalties in case of receiving such tobacco for sale.

§ 724.105 Records and reports of truckers and persons redrying, prizing, or stemming tobacco.

(a) Each trucker shall keep such records, by kinds of tobacco, as will enable him to furnish the ASCS State office a report with respect to each lot of tobacco received by him showing:

(1) The name and address of the producer;

(2) The date of receipt of the tobacco;

(3) The number of pounds received; and,

(4) The name and address of the person to whom it was delivered.

(b) Each person engaged to any extent in the business of redrying, prizing, or stemming tobacco for producers shall keep, by kinds of tobacco, such records as will enable him to furnish the director a report showing:

(1) The information required above for truckers; and, in addition,

(2) The purpose for which the tobacco was received;

(3) The amount of advance made by him on the tobacco; and,

(4) The disposition of the tobacco.

§ 724.106 Separate records and reports from persons engaged in more than one business.

Any person who is required to keep any record or make any report as a warehouseman, processor, dealer, buyer, trucker, or as a person engaged in the business of sorting, redrying, prizing, stemming, packing, or otherwise processing tobacco for producers, and who is engaged in more than one such business, shall keep such records as will enable him to make separate reports for each such business in which he is engaged to the same extent for each such business as if he were engaged in no other business.

§ 724.107 Failure to keep records and make reports or making false report or record.

(a) *Failure to keep records or make reports.* Under the provisions of section 373(a) of the act, any warehouseman, hogshead warehouseman, processor, dealer, buyer, trucker, or person engaged in the business of sorting, redrying, prizing, stemming, packing, or otherwise processing tobacco for producers who fails to make any report or keep any record as required, or who makes any false report or record, is guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not more than $500 for each offense. In addition, any tobacco warehouseman, dealer, or buyer who fails, upon being requested to do so, to remedy a violation(s) by submitting complete reports and keeping accurate records shall be subject to an additional fine, not to exceed $5,000.

(b) *False representations.* The penalties designated in paragraph (a) of this section are in addition to penalties prescribed by other criminal statutes including U.S. Code, Title 18, section 1001, which provides for a fine of not more than $10,000, or imprisonment for not more than five years, or both, for a person convicted of knowingly and willingly committing such acts as making a false acreage report, altering a marketing card, or falsely identifying tobacco.

§ 724.108 Examination of records and reports.

For the purpose of ascertaining the correctness of any report made or record kept, or of obtaining information required to be furnished in any report, but not so furnished, any warehouseman, hogshead warehouseman, processor, dealer, buyer, trucker, or person engaged in the business of sorting, redrying, prizing, stemming, packing, or otherwise processing tobacco for producers, shall make available at one place for examination by representatives of the State executive director and by employees of the Internal Audit and Investigation Division, and of the Farmer Programs Division, and Producer Association Division of the Agricultural Stabilization and Conservation Service, United States Department of Agriculture, upon written request by the State executive director, all such books, papers, records, basket tickets, floor sheets, buyer adjustment invoices, accounts, cancelled checks, check registers, check stubs, correspondence, contracts, documents, and memoranda as the State executive director or the Director has reason to believe are relevant and are within the control of such person.

§ 724.109 Length of time records and reports are to be kept.

Records required to be kept and copies of the reports required to be made by any person under this subpart shall be on a marketing year basis and shall be retained by him for two years after the end of the marketing year. Records shall be kept for such longer period of time as may be requested in writing by the State executive director or the Director.

§ 724.110 Information confidential.

All data reported to or acquired by the Secretary, pursuant to the provisions of §§ 724.80 through 724.110, shall be kept confidential by all officers and employees of the United States Department of Agriculture, and by all members of county and community committees, and all ASCS county office employees and only such data so reported or acquired, as the Deputy Administrator deems relevant shall be disclosed by them, and then only in a suit or administrative hearing under Title III of the act.

NOTE: The recordkeeping and reporting requirements of these regulations have been approved by and subsequent reporting requirements will be subject to the approval of the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

(Secs. 301, 313, 314, 315, 316, 363, 372–375, 377, 378, 52 Stat. 38, as amended, 47, as amended, 48, as amended, 63, as amended, 65, as amended 66, as amended, 66 Stat. 597, as amended, 70 Stat. 206, as amended, 72 Stat. 703, 995, as amended, 75 Stat. 469, as amended, sec. 401, 63 Stat. 1054, as amended, secs. 106, 112, 125, 70 Stat. 191, 195, 198, as amended; 7 U.S.C. 1301, 1313, 1314, 1315, 1363, 1372–1375, 1377, 1378, 1421, 1813, 1824 and 1836)

Effective date: Date of filing with the Director, Office of the Federal Register.

Signed at Washington, D.C., on July 25, 1963.

H. D. GODFREY,
Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 63-8019; Filed, July 26, 1963; 12:31 p.m.]

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

[Prune Reg. 1]

PART 924—FRESH PRUNES GROWN IN DESIGNATED COUNTIES IN WASHINGTON AND IN UMATILLA COUNTY, OREGON

Limitation of Shipments

§ 924.302 Prune Regulation 1.

(a) *Findings.* (1) Pursuant to the marketing agreement and Order No. 924 (7 CFR Part 924), regulating the handling of fresh prunes grown in designated counties in Washington, and in Umatilla County, Oregon, under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the recommendations of the Washington-Oregon Fresh Prune Marketing Committee, established under the aforesaid marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of fresh prunes, in the manner herein provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 1001–1011) in that, as hereinafter set forth, the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than August 1, 1963. A reasonable determination as to the supply of, and the demand for, prunes must await the development of the crop and adequate information thereon was not available to the Washington-Oregon Fresh Prune Marketing Committee until July 23, 1963, recommendation as to the need for, and the extent of, regulation of shipments of such prunes was made at the meeting of said committee on July 23, 1963, after consideration of all available information relative to the supply and demand conditions for such prunes, at which time the recommendation and supporting information were submitted to the Department; shipments of the current crop of such prunes will begin on or about August 1, 1963, and this section should be applicable, insofar as practicable, to all shipments of such prunes in order to effectuate the declared policy of the act; and compliance with the provisions of this section will not require of handlers any preparation therefor which cannot be completed by the effective time of hereof.

(b) *Order.* During the period beginning at 12:01 a.m., P.s.t., August 1, 1963, and ending at 12:01 a.m., P.s.t., November 1, 1963, no handler shall handle any lot of prunes unless such prunes meet the following applicable requirements, or are handled in accordance with subparagraph (3) of this paragraph:

(1) *Minimum grade requirement.* Such prunes grade at least U.S. No. 1: *Provided,* That any prunes having not less than two-thirds (⅔) of the surface with purplish color may be shipped if they otherwise grade at least U.S. No. 1: *Provided further,* prunes for export may be shipped if they grade at least U.S. No. 2.

(2) Such prunes, in addition to meeting the other requirements of maturity as defined in the United States Stand-

ards for Fresh Plums and Prunes (§§ 51.1520–51.1537 of this title), contain not less than fourteen (14) percent soluble solids, as determined by refractometer test of the juice from the blossom end sections of not less than 10 prunes selected at random from the lot. The blossom end section of each prune shall be cut at right angles to the longitudinal axis to the depth of the pit, and the juice therefrom tested either on a composite basis or individual tests averaged.

(3) Notwithstanding any other provision of this regulation, any individual shipment of prunes which, in the aggregate, does not exceed 150 pounds net weight may be handled without regard to the restrictions specified in this paragraph (b) or in §§ 924.41 (Assessment) and 924.55 (Inspection and certification).

(4) The term "U.S. No. 1" and "U.S. No. 2" shall have the same meaning as when used in the United States Standards for Fresh Plums and Prunes (§§ 51.1520–51.1537 of this title); the term "purplish color" shall have the same meaning as when used in the Washington State Department of Agriculture Standards for Italian Prunes (May 1954); and, except as otherwise specified, all other terms shall have the same meaning as when used in the marketing agreement and order.

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

Dated: July 29, 1963.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 63-8086; Filed, July 30, 1963; 9:02 a.m.]

PART 948—IRISH POTATOES GROWN IN COLORADO

Expenses and Rate of Assessment; Area No. 1

Notice of rule making regarding proposed expenses and a proposed rate of assessment, to be effective under Marketing Agreement No. 97, as amended, and Order No. 948, as amended (7 CFR Part 948), regulating the handling of Irish potatoes grown in Colorado, was published in the July 11, 1963, FEDERAL REGISTER (28 F.R. 7099). This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The notice afforded interested persons an opportunity to submit data, views, or arguments pertaining thereto not later than 10 days following publication in the FEDERAL REGISTER. None was filed.

After consideration of all relevant matter presented, including the proposals set forth in the aforesaid notice which were recommended by the area committee for Area No. 1, established pursuant to the said amended marketing agreement and order, it is hereby found and determined that:

§ 948.242 Expenses and rate of assessment; Area No. 1.

(a) The reasonable expenses that are likely to be incurred by the area committee for Area No. 1 for its maintenance and functioning during the fiscal period ending May 31, 1964, will amount to $625.00.

(b) The rate of assessment to be paid by each handler in Area No. 1 pursuant to Marketing Agreement No. 97 and this part, shall be one-half cent ($0.005) per hundredweight of potatoes grown in such area handled by him as the first handler thereof during said fiscal period.

(c) Terms used in this section have the same meaning as when used in Marketing Agreement No. 97, as amended, and this part.

It is hereby found that good cause exists for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 1003) in that: (1) The relevant provisions of said amended marketing agreement and this part require that rates of assessment fixed for a particular fiscal period shall be applicable to all assessable potatoes from the beginning of such period, and (2) the current fiscal period began on June 1, 1963, and the rate of assessment herein fixed will automatically apply to all assessable potatoes beginning with such date.

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

Dated: July 25, 1963.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 63-8016; Filed, July 30, 1963; 8:48 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter II—Civil Aeronautics Board

SUBCHAPTER F—POLICY STATEMENTS

[Reg. Policy Statement No. 20]

PART 399—STATEMENTS OF GENERAL POLICY

Non-Transport Activities of Subsidized Air Carriers

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 25th day of July 1963.

The Board, by publication in 27 F.R. 3295, 4309, and 8553 and by circulation of PSDR–4, 4A and 4B, Docket 13518, issued a notice of proposed rule making proposing an addition to Part 399—Statements of General Policy, to state that the Board would consider any significant engagement in non-transport activities by a subsidized air carrier as prima facie contrary to the public interest when exercising its regulatory powers with respect to matters in which non-transport activities are a factor. The Board stated that it was concerned over a trend by subsidized air carriers to engage in non-transport activities and that its concern was based on three general premises: Significant non-transport activites (1) may create financial risks to the carrier which could jeopardize its effective operations, (2) are likely to result in diversion of the energies of management from the carrier's transportation activities, and (3) create problems with regard to the allocation of expenses as between the air transportation and other activities of the carrier.

A large number of comments were received. Those objecting to the policy statement questioned the legal authority of the Board to promulgate it and the validity of the premises on which it was based. They contended also that the statement was vague and contained no indication of the intended scope of the policy or of the manner in which it would be implemented. Specifically, question was raised as to the type of proceeding in which the Board would apply the policy; the types of non-transport activities to which it would be applied and the manner of its application to nontransport activities in which the subsidized carriers are already engaged. The subsidized carriers, a number of corporate aircraft operators and the Federal Aviation Agency urged particularly that subsidized air carriers not be precluded from engaging in aircraft repair and maintenance activities. Comments in support of the proposed policy were filed by car rental companies, a number of non-carrier fixed-base operators and others. In general, they contended that it was unfair for subsidized air carriers to be allowed to compete with private unsubsidized business enterprises.

Upon consideration of all the comments received, the Board is of the opinion that the basic principles upon which the notice was based are sound and that the public interest requires the promulgation of a statement indicating as the general policy of the Board that substantial involvement by subsidized carriers in non-transport activities will not be favored. However, on the basis of the comments and upon further consideration by the Board it is apparent that in order for the policy to be fully effective, it is necessary that it be clarified in several respects and further criteria included for the guidance of the industry. The following discussion sets out the basis for the adoption of the rule and deals with points raised by the comments.

1. The carriers contend that the Federal Aviation Act does not give the Board the power to promulgate this regulation. They argue first that section 204(a) of the Act, upon which the Board relies, does not provide a statutory basis for the promulgation of the rule. They contend that the Board may act under this section to protect the public interest only within the powers conferred under other sections of the statute and that no other section authorizes the Board to control carriers' interest or engagement in nonaeronautical enterprises. They contend that the limitation imposed by the rule on carrier management's right to diversify is an unlawful invasion by the Board of the area of management discretion. They also contend variously that there was insufficient evidence to support the Board's stated premises for promulgation of the rule, and that the

standards proposed in the notice were so vague as to be meaningless.

Section 204(a) empowers the Board to issue such general or special rules and regulations, pursuant to and consistent with the provisions of the Act, as it shall deem necessary to carry out the provisions of and to exercise and perform its powers and duties under the Act. Under section 102 the Board is directed in the exercise and performance of its duties under the Act to consider, among other things, as being in the public interest the promotion of adequate economical and efficient service by air carriers, and the regulation of air transportation in such manner as to foster sound economic conditions therein. In addition to the specific factors enumerated, the "other things" to be considered by the Board include the duty, tacit in numerous provisions of the Act, especially the subsidy provisions, to assure that monies from the public treasury are expended for the purposes specified by the Congress. The intention of Congress was the development of an air transportation system composed of strong, healthy air carriers. Under section 204(a), the Board is clearly authorized to promulgate a policy statement which it deems necessary to carry out its duty to prevent to the extent of its specific statutory powers, any portion of the vast public investment in carriers from being dissipated through the involvement in activities other than the providing of air transportation.

It is perfectly true, of course, that the Board's statutory powers to regulate the non-transport activities of air carriers are quite limited. There is no general prohibition on such activities contained in the statute, nor is the Board given direct power to prohibit the activities as such or to regulate them. On the other hand, a non-transport activity may come under the Board's jurisdiction as an incident to the question of approval or disapproval of an inter-carrier relationship or agreement. As an example, under section 408(b) of the Act the Board must weigh the public interest with respect to proposed consolidations, mergers and acquisitions of control involving air carriers and persons engaged in any phase of aeronautics. Section 409 prohibits certain interlocking relationships involving carriers and persons engaged in a phase of aeronautics which the Board finds adverse to the public interest. Likewise, under section 412 the Board must review inter-carrier agreements affecting air transportation, including those which might involve non-transport activities.

We do not intend the foregoing recital to be exhaustive on the question of the possible application of the policy. Suffice it to say that the policy would be applied in appropriate cases whenever the performance of non-transport activities is relevant to the determination of the issues presented.

The carriers also contend that the proposed rule was legally defective in that it was so vague as to be meaningless. Any lack of clarity which may have existed under the notice as to the intended basis and purpose of the rule is eliminated by the criteria which have been added to the language of the final policy statement adopted herein and by this explanatory statement. To attempt to specify in any further detail the intended application of the rule would be impractical and undesirable in a policy statement which is intended to leave the Board and the parties a degree of flexibility in determining the public interest involved in the performance by subsidized carriers of various types and amounts of non-transport activity.

2. Upon consideration of all the comments, the Board is convinced that any extensive engagement of subsidized air carriers in non-transport activities could jeopardize the performance by these carriers of effective air transport operations. The Board is also of the view that the entire interests and energies of management are required for transportation activities and that diversion of the management to performance of other activities will tend to interfere with their performance of effective air transport operations. These activities also create problems of expense allocation. While such problems are not insoluble and in themselves would not be sufficient justification for the policy, they do place an additional burden on carrier and Board staff alike. Taken together with the other considerations, the allocation problems add to the justification for adoption of the policy.

In the light of these considerations and in view of various indications of increased engagement by certain subsidized air carriers in non-transport activities, the Board feels that issuance by it of the instant policy statement is necessary and timely and in the public interest.

3. The policy established herein provides that substantial engagement by subsidized carriers in non-transport activities will be presumed not to be in the public interest. The burden will be upon the carriers to prove that their engagement in such activities will not involve a risk of significant financial loss and will not unduly divert the management or otherwise interfere with the primary business of the subsidized carrier which is to provide air transportation. The policy statement sets out the major elements which the Board will consider in passing upon the public interest aspects of a non-transport activity. These include such elements as the extent of new investment in plant and organization and personnel to conduct the activity in addition to that required by the carrier for its own air transportation operations, several factors related to the general expectation with respect to profitability or loss from the activity, the affinity to services normally provided by air carriers in conducting air operations, the possibility of conflict of interest, the amount of supervision required and other factors.

4. Particular concern was expressed as to the applicability of the policy to maintenance and repair services performed by the carriers for others. To the extent that such activities are performed by utilizing the idle time of plant, organization and personnel essential to the carrier's air transport function the activity would not be regarded as adverse to the public interest. Where additional personnel or plant are required, the activity would be judged on the basis of such factors as the amount of the additional investment, the carrier's past experience and degree of financial success with the activity, the affinity of the activity to the carrier's transport function, the amount and strength of the competition and the contribution by the activity to safety in air commerce.

5. The policy is applicable to existing, as well as proposed non-transport activities. However, the carrier's past experience in the activity would be taken into account in determining whether the activity is adverse to the public interest.

6. Finally, it is to be stressed that the policy adopted herein in no sense affects the historic subsidy policies of the Board with regard to non-transport activities. Such activities have never been considered eligible for subsidy under the Act, and the expenses, revenues and investment have always been carefully screened from the subsidy computations. On the other hand, profits from such activities (over and above a reasonable return) unless shown to be entirely unrelated to the air carrier service, are employed to reduce subsidy. These principles will continue to be applied to all non-transport activities, irrespective of whether they are deemed adverse to the public interest.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends its Statements of General Policy, 14 CFR Part 399, effective July 31, 1963, by adding thereto a new § 399.44 to read as follows:

§ 399.44 Non-transport activities by subsidized air carriers.

(a) Applicability: This section shall apply to proceedings in which the Board, in exercising its regulatory powers with regard to subsidized carriers, is required to make a determination as to the public interest or consistency with the Act. Its applicability shall include, but not be limited to, proceedings under sections 408, 409 and 412 of the Act.

(b) "Non-transport activity" means any business activity performed by a subsidized air carrier which is not an integral part of the transportation of persons, property or mail by the carrier pursuant to its certificate of public convenience and necessity or other authorization granted by the Board.

(c) Presumption against non-transport activity: Substantial engagement by subsidized carriers in non-transport activities will be presumed by the Board not to be in the public interest. The carriers shall have the burden of proving through factual evidence submitted in proceedings before the Board that their engagement in such activities will not involve a risk of significant financial loss and will not unduly divert the management or otherwise interfere with the primary business of the subsidized carrier which is to provide air transportation.

(d) Public interest factors: The major factors which the Board will consider in determining whether a non-transport activity is in the public interest are as follows:

(1) The amount of additional investment in plant and organization and the number of personnel necessary to perform the non-transport activity in excess of that required to perform the carrier's own air transportation functions (to the extent the non-transport activity is performed making use of the idle time of plant, organization and personnel essential to the carrier's air transport function it shall not be deemed adverse to the public interest); (2) The carrier's past experience and degree of financial success in performing the activity; (3) The amount and strength of the competition; (4) The speculative nature of the activity; (5) The affinity of the activity to the normal activities of an air carrier; (6) The amount of supervision by the management required by the nature and scope of the activity; (7) The extent to which the financial interest of the carrier in the non-transport activity may conflict with its interest in the economic performance of air transportation; (8) The extent to which the non-transport activity contributes to the development of traffic over the routes of the carrier, and (9) The extent to which the activity constitutes a contribution to safety in air commerce which would be lost if the activity were discontinued.

(Secs. 102, and 204(a), 72 Stat. 740 and 743; 49 U.S.C. 1302 and 1324. Administrative Procedure Act, sec. 3, 60 Stat. 238; 5 U.S.C. 1002)

By the Civil Aeronautics Board.

[SEAL] MABLE MCCART,
Acting Secretary.

[F.R. Doc. 63-8049; Filed, July 30, 1963; 9:00 a.m.]

Title 15—COMMERCE AND FOREIGN TRADE

Subtitle A—Office of the Secretary of Commerce

PART 5—OPERATION OF VENDING STANDS

The following supersedes Part 5 of Title 15 of the Code of Federal Regulations which appeared in 21 F.R. 4242, dated June 16, 1956.

Sec.
5.1 Purpose.
5.2 Policy.
5.3 Assignment of functions and authorities.
5.4 Permits.
5.5 Vending machines.
5.6 Appeals.
5.7 Reports.
5.8 Approval of regulations.

AUTHORITY: §§ 5.1 to 5.8 issued under sec. 4, 68 Stat. 663; 20 U.S.C. 107.

§ 5.1 Purpose.

This part prescribes regulations to assure the granting of preference to blind persons licensed under the provisions of the Randolph-Sheppard Vending Stand Act (49 Stat. 1559, as amended by the act of August 3, 1954, 68 Stat. 663; 20 U.S.C. 107) for the operation of vending stands (which term as used in this order includes vending machines).

§ 5.2 Policy.

(a) The Department adopts the Federal policy announced in the Randolph-Sheppard Vending Stand Act, as amended, to provide blind persons with remunerative employment to enlarge the economic opportunities of the blind and to stimulate the blind to greater efforts in striving to make themselves self-supporting.

(b) It shall be the policy of the Department to authorize blind persons licensed under the provisions of the Randolph-Sheppard Vending Stand Act, as amended to operate vending stands without any charge for space or necessary utilities on properties owned and occupied by the Department or on which the Department controls maintenance, operation, and protection.

(c) The Department will cooperate with the Department of Health, Education, and Welfare and State licensing agencies in making surveys to determine whether and where vending stands may be properly and profitably operated by licensed blind persons.

(d) The application of a State licensing agency for a permit may be denied or revoked if it is determined that the interests of the United States would be adversely affected or the Department would be unduly inconvenienced by the issuance of a permit or its continuance.

(e) Disagreements concerning the denial, revocation, or modification of a permit may be appealed by the State licensing agency as set forth in § 5.6.

§ 5.3 Assignment of functions and authorities.

(a) The Director, Office of Administrative Services, shall carry out the Department's responsibility to provide, in accordance with applicable law and regulation, the maximum opportunity for qualified blind persons to operate vending stands.

(b) Subject to instructions issued by the Director, Office of Administrative Services, the head of each primary organization unit shall be responsible for implementing this program within his area.

(c) The Director, Office of Administrative Services for the primary organization units located in the main Commerce building and the head of each other primary organization unit will make determinations with respect to the terms of permits including the location and operation of vending stands and machines in their respective areas.

(d) Unresolved differences and significant violations of the terms of permits shall be reported to the State licensing agency. Where no corrective action is forthcoming, the matter shall be referred to the Office of Vocational Rehabilitation, Department of Health, Education, and Welfare for consideration prior to further action.

§ 5.4 Permits.

(a) No permit, lease, or other arrangement for the operation of a vending stand on property under control of the Department shall be entered into or renewed without first consulting the State licensing agency or equivalent authority.

(b) The permit shall be conditioned upon the vending stand meeting specified standards, including standards relating to appearance, safety, sanitation, maintenance, and efficiency of operation. Due regard shall be given to laws and regulations for the public welfare which are applicable, or would be applicable, if the property involved was not owned or controlled by the Federal Government.

(c) The permit shall specify the types of articles specified in section 2(a)(4) of the Act as amended (newspapers, periodicals, confections, tobacco products, articles dispensed automatically or in containers or wrappings in which they are placed before delivery to the vending stand). Such other related articles as the State licensing agency asks to be included shall be permitted to be sold, unless such factors as inadequacy of available facilities, safety, health, public welfare, or legal requirements demand otherwise.

(d) The permit shall contain a provision that alterations made by other than the United States shall be approved by and conducted under the supervision of an appropriate official of the Department or the primary organization unit concerned.

(e) The permit may contain other reasonable conditions necessary for the protection of the Government and prospective patrons of the stand.

(f) The permit shall describe the location of the stand proper and the location of any vending machines which are operated in conjunction with it.

§ 5.5 Vending machines.

(a) The income from any vending machines which are located within reasonable proximity to and are in direct competition with a vending stand for which a permit has been issued under these regulations shall be assigned to the operator of such stand.

(b) If a vending machine vends articles of a type authorized by the permit and is so located that it attracts customers who would otherwise patronize the vending stand, such machine shall be deemed to be in reasonable proximity to and direct competition with the stand.

§ 5.6 Appeals.

(a) In any instance where the Department of Commerce official as provided in section 5.3(c) and the State licensing agency fail to reach agreement concerning the granting, revocation, or modification of a permit, the location, method of operation, assignment of proceeds, or other terms of a permit (including articles which may be sold), the State licensing agency shall be notified in writing by the Commerce official concerned that it has the right to appeal such disagreements, within 30 days of the notice, to the Assistant Secretary for Administration for investigation and final decision.

(b) Upon receipt of a timely appeal the Assistant Secretary for Administration will cause a full investigation to be made. The State licensing agency shall be given an opportunity to present information pertinent to the facts and cir-

cumstances of the case. The complete investigation report including the recommendations of the investigating officer shall be submitted to the Assistant Secretary for Administration within 60 days from the date of the appeal.

(c) The Assistant Secretary for Administration will render a final decision on the appeal within 90 days of the date of appeal.

(d) The State licensing agency will be informed of the final decision on its appeal. Copies of the decision will be forwarded to the Department of Commerce official concerned and the Department of Health, Education, and Welfare.

§ 5.7 Reports.

No later than fifteen days following the end of each fiscal year the responsible officials set forth in section 5.3(c) shall forward to the Director, Office of Administrative Services a report on activities under this order. The report shall include:

(a) The number of applications, including requests for installations initiated by the Department, for vending stands received from State licensing agencies;

(b) The number of such requests accepted or approved;

(c) The number denied, on which no appeal was made and the number denied on which an appeal was made; and

(d) The number and status of any requests still pending.

§ 5.8 Approval of regulations.

The provisions of this part have been approved by the Director, Bureau of the Budget pursuant to Executive Order 10604, of April 22, 1955.

Dated: July 24, 1963.

HERBERT W. KLOTZ,
Assistant Secretary for Administration.

[F.R. Doc. 63-8042; Filed, July 30, 1963; 8:58 a.m.]

PART 6—SPECIFICATIONS FOR HYDRAULIC BRAKE FLUIDS FOR USE IN MOTOR VEHICLES

After giving adequate public notice on April 23, 1963, of a proposed change in specifications for hydraulic brake fluids for use in motor vehicles, published in the FEDERAL REGISTER on December 4, 1962, and after receiving and considering public comments, I hereby prescribe and publish the following modifications to the original specifications, under authority vested in me by Public Law 87-637, approved September 5, 1962 (76 Stat. 437). These modifications are identical to those for types 7OR1, 7OR1 Arctic, and 7OR3 hydraulic brake fluids in SAE Standard J7OB dated May 1963 and published by the Society of Automotive Engineers, 485 Lexington Avenue, New York 17, N.Y. These specifications are effective immediately and are mandatory after March 1, 1964. The specifications published on December 4, 1962, are optional until they expire on March 1, 1964.

Done at Washington, D.C., this 23d day of July 1963.

FRANKLIN D. ROOSEVELT, Jr.,
Acting Secretary of Commerce.

Sec.
6.1 Definitions.
6.2 Scope and application.
6.3 Requirements for SAE Type 70R1 and SAE Type 70R1 Arctic.
6.4 Requirements for SAE Type 70R3.
6.5 Changes in specifications.
6.6 Effective date.

AUTHORITY: §§ 6.1 to 6.6 issued under secs. 1-4, Public Law 87-637, approved September 5, 1962 (76 Stat. 437).

§ 6.1 Definitions.

As used in these specifications:

(a) The term "act" means Public Law 87-637, approved September 5, 1962 (76 Stat. 437).

(b) The term "hydraulic brake fluid" means any fluid for use in the hydraulic braking system of a motor vehicle, except petroleum base fluid which is in a container clearly identified and distinguishable from the types of non-petroleum hydraulic brake fluids prescribed in these specifications.

(c) The term "motor vehicle" means any vehicle or machine which is propelled or drawn by mechanical power and which is one of a class of vehicles, such as passenger cars, trucks, buses or trailers, for use principally on the highways.

(d) The abbreviation "° C." means temperature expressed in degrees Celsius.

(e) The abbreviation "° F." means temperature expressed in degrees Fahrenheit.

§ 6.2 Scope and application.

Hydraulic brake fluid in commerce for use in motor vehicles operated on the highways within any State or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico shall comply with the requirements prescribed in §§ 6.3 and 6.4 for one or more of the following types when such type or types are marked on the label of the container or are identified by other means: SAE Type 70R1, SAE Type 70R1 Arctic, SAE Type 70R3. When the type is not indicated on the label of the container or otherwise or when the type indicated is not one of these three types, the hydraulic brake fluid shall comply with the requirements for SAE Type 70R1 prescribed in § 6.3. Until March 1, 1964, the requirements for SAE Type 70R1 and SAE Type 70R3 hydraulic brake fluid published in the FEDERAL REGISTER on December 4, 1962 are optional alternatives to the requirements prescribed in §§ 6.3 and 6.4.

§ 6.3 Requirements for SAE Type 70R1 and SAE Type 70R1 Arctic.

SAE Type 70R1 and SAE Type 70R1 Arctic hydraulic brake fluid shall meet the following requirements when tested in accordance with the designated procedures in SAE Standard J70b dated May 1963 for SAE 70R1 and SAE 70R1 Arctic:

(a) *Boiling point.* Brake fluid when tested by the procedure specified in section 4.1 of SAE J70b shall have a boiling point not less than 150° C. or 302° F.

(b) *Flash point.* Brake fluid when tested by the procedure specified in section 4.2 of SAE J70b shall have a flash point not less than 63° C. or 145.4° F.

(c) *Viscosity.* Brake fluid when tested by the procedure specified in section 4.3 of SAE J70b shall have the following kinematic viscosities: SAE Type 70R1 Arctic at minus 55° C. or minus 67° F.— not more than 1,500 centistokes; SAE Type 70R1 at minus 40° C. or minus 40° F.—not more than 1,800 centistokes; SAE Type 70R1 and SAE Type 70R1 Arctic at 50° C. or 122° F.— not less than 3.5 centistokes; and SAE Type 70R1 and SAE Type 70R1 Arctic at 100° C. or 212° F.—not less than 1.3 centistokes.

(d) *pH value.* Brake fluid when tested by the procedure specified in section 4.4 of SAE J70b shall have a pH value not less than 7.0 nor more than 11.5.

(e) *Stability at high temperature.* When tested by the procedure specified in section 4.5 of SAE J70b the boiling point of the brake fluid shall not be less than 146° C. or 294.8° F. and shall not change by more than 5.0° C. or 9.0° F.

(f) *Corrosion.* (1) Brake fluid when tested by the procedure specified in section 4.6 of SAE J70b shall not cause corrosion exceeding the limits shown in Table 1. The metal strips outside of the area where the strips are in contact shall neither be pitted nor roughened to an extent discernable to the naked eye, but staining or discoloration is permitted.

(2) The fluid-water mixtures shall show no jelling at 23°±5° C. or 73.4±9° F. No crystalline type deposit shall form and adhere to either the glass jar walls or the surface of metal strips. The fluid-water mixture shall contain no more than 0.10 percent sediment by volume. The fluid-water mixture shall have a pH value not less than 7.0 nor more than 11.5.

(3) The test rubber cup shall show no disintegration, as evidenced by excessive tackiness, blisters, or sloughing indicated by carbon black separation on the surface of the rubber cup. The hardness of the rubber cup shall not decrease by more than 15 degrees and the base diameter shall not increase by more than 1.4 millimeters or 0.055 inch.

(g) *Fluidity and appearance at low temperatures.* At minus 40° C. or minus 40° F., when brake fluid is tested by the procedure specified in section 4.7(a) of SAE J70b, the black contrast lines on a hiding power chart shall be clearly discernible when viewed through the fluid in the sample bottle. The fluid shall show no stratification or sedimentation, and upon inversion of the sample bottle, the air bubble shall travel to the top of the fluid in not more than 10 seconds. At minus 50° C. or minus 58° F., when brake fluid is tested by the procedure specified in section 4.7(b) of SAE J70b, the black contrast lines on a hiding power chart shall be clearly discernible when viewed through the fluid in the sample bottle. The fluid shall show no stratification or sedimentation, and upon in-

version of the sample bottle, the air bubble shall travel to the top of the fluid in not more than 35 seconds.

(h) *Evaporation.* When brake fluid is tested by the procedure specified in section 4.8 of SAE J70b, loss by evaporation shall not exceed 80 percent by weight. Residue from the brake fluid after evaporation shall contain no precipitate that remains gritty or abrasive when rubbed with the fingertip. Residue shall have a pour point below minus 5° C. or plus 23° F.

(i) *Water tolerance.* At minus 40° C. or minus 40° F., when brake fluid is tested by the procedure specified in section 4.9(b) of SAE J70b, the black contrast lines on a hiding power chart shall be clearly discernible when viewed through the fluid in the centrifuge tube. The fluid shall show no stratification or sedimentation. Upon inversion of the centrifuge tube, the air bubble shall travel to the top of the fluid in not more than 10 seconds. At 60° C. or 140° F., when brake fluid is tested by the procedure specified in section 4.9(b) of SAE J70b, the fluid shall show no stratification, and sedimentation shall not exceed 0.05 percent by volume either before or after centrifuging.

(j) *Compatibility.* At minus 40° C. or minus 40° F., when brake fluid is tested by the procedure specified in section 4.10(a) of SAE J70b, the black contrast lines on a hiding power chart shall be clearly discernible when viewed through the fluid in the centrifuge tube. The fluid shall show no stratification or sedimentation. At 60° C. or 140° F., when brake fluid is tested by the procedure specified in section 4.10(b) of SAE J70b, the fluid shall show no stratification, and sedimentation shall not exceed 0.05 percent by volume either before or after centrifuging.

(k) *Resistance to oxidation.* Brake fluid when tested by the procedure specified in section 4.11 of SAE J70b shall not cause the metal strips outside of the areas in contact with the tinfoil to be pitted nor roughened to an extent discernible to the naked eye, but staining or discoloration is permitted. No more than a trace of gum shall be deposited on the test strips outside of the areas in contact with the tinfoil. The aluminum strips shall not decrease in weight by more than 0.05 milligram per square centimeter and the cast iron strips shall not decrease in weight by more than 0.3 milligram per square centimeter.

(l) *Effect on rubber.* Rubber brake cups subjected to brake fluid as specified in section 4.12 of SAE J70b shall show no increase in hardness, shall not decrease in hardness by more than 10 degrees and shall show no disintegration as evidenced by excessive tackiness, blisters, or sloughing indicated by carbon black separation on the surface of the rubber cup. The increase in the diameter of the base of the cups shall not be less than 0.15 millimeter or 0.006 inch nor more than 1.4 millimeters or 0.055 inch.

(m) *Simulated service performance.* Brake fluid when tested by the procedure specified in section 4.13 of SAE J70b shall meet the following performance requirements:

(1) Metal parts shall not show corrosion as evidence by pitting to an extent discernible to the naked eye, but staining or discoloration shall be permitted.

(2) The initial diameter of any cylinder or piston shall not change by more than 0.13 millimeter or 0.005 inch during test.

(3) The average lip diameter interference set of the rubber cups shall not be greater than 65 percent.

(4) Rubber cups shall not decrease in hardness by more than 10 degrees and shall not be in an unsatisfactory operating condition as evidenced by excessive amounts of tackiness, scoring, scuffing, blistering, cracking, chipping (heel abrasion), or change in shape from original appearance.

(5) During any period of 24,000 strokes, the volume loss of fluid shall be not more than 36 milliliters.

(6) The cylinder pistons shall not freeze nor function improperly throughout the test.

(7) The volume loss of fluid during the 100 strokes at the end of the test shall not be more than 36 milliliters.

(8) The condition of the fluid and brake cylinders at the end of test as evidenced by sludging, jelling, sedimentation, or grittiness shall not be such as would be likely to cause improper brake action in actual service.

(9) The base diameter of the rubber cups shall not increase by more than 0.9 millimeter or 0.035 inch.

§ 6.4 Requirements for SAE Type 70R3.

SAE Type 70R3 hydraulic brake fluid shall meet the following requirements when tested in accordance with the designated procedures in SAE Standard J70b dated May 1963 for SAE 70R3:

(a) *Boiling point.* Brake fluid when tested by the procedure specified in section 8.1 of SAE J70b shall have a boiling point not less than 190° C. or 374° F.

(b) *Flash point.* Brake fluid when tested by the procedure specified in section 8.2 of SAE J70b shall have a flash point not less than 82° C. or 179.6° F.

(c) *Viscosity.* Brake fluid when tested by the procedure specified in section 8.3 of SAE J70b shall have the following kinematic viscosities: At minus 40° C. or minus 40° F.—not more than 1,800 centistokes; at 50° C. or 122° F.—not less than 4.2 centistokes; and at 100° C. or 212° F.—not less than 1.5 centistokes.

(d) *pH value.* Brake fluid when tested by the procedure specified in section 8.4 of SAE J70b shall have a pH value not less than 7.0 or more than 11.5.

(e) *Stability at high temperature.* When tested by the procedure specified in section 8.5 of SAE J70b, the boiling point of the brake fluid shall not be less than 188° C. or 370.4° F. and shall not change by more than 5.0° C. or 9.0° F. for brake fluids boiling below 225° C. or 437° F. nor by more than 5.0° C. or 9.0° F. plus 0.05 degree for each degree that the boiling point exceeds 225° C. or 437° F.

(f) *Corrosion.* (1) Brake fluid when tested by the procedure specified in section 8.6 of SAE J70b shall not cause corrosion exceeding the limits shown in Table 1. The metal strips outside of the area where the strips are in contact shall neither be pitted nor roughened to an extent discernible to the naked eye, but staining or discoloration is permitted.

(2) The fluid-water mixtures shall show no jelling at 23°±5° C. or 73.4°±9° F. No crystalline-type deposit shall form and adhere to either the glass jar walls or the surface of metal strips. The fluid-water mixture shall contain no more than 0.10 percent sediment by volume. The fluid-water mixture shall have a pH value of not less than 7.0 nor more than 11.5.

(3) The test rubber cup shall show no disintegration, as evidenced by excessive tackiness, blisters, or sloughing indicated by carbon black separation on the surface of the rubber cup. The hardness of the rubber cup shall not decrease by more than 15 degrees and the base diameter shall not increase by more than 1.4 millimeters or 0.055 inch.

(g) *Fluidity and appearance at low temperatures.* At minus 40° C. or minus 40° F., when brake fluid is tested by the procedure specified in section 8.7(a) of SAE J70b, the black contrast lines on a hiding power chart shall be clearly discernible when viewed through the fluid in the sample bottle. The fluid shall show no stratification or sedimentation, and upon inversion of the sample bottle, the air bubble shall travel to the top of the fluid in not more than 10 second. At minus 50° C. or minus 58° F., when brake fluid is tested by the procedure specified in section 8.7(b) of SAE J70b, the black contrast lines on a hiding power chart shall be clearly discernible when viewed through the fluid in the sample bottle. The fluid shall show no stratification or sedimentation, and upon inversion of the sample bottle, the air bubble shall travel to the top of the fluid in not more than 35 seconds.

(h) *Evaporation.* When brake fluid is tested by the procedure specified in section 8.8 of SAE J70b, loss by evaporation shall not exceed 80 percent by weight. Residue from the brake fluid after evaporation shall contain no precipitate that remains gritty or abrasive when rubbed with the fingertip. Residue shall have a pour point below minus 5° C. or plus 23° F.

(i) *Water tolerance.* At minus 40° C. or minus 40° F., when brake fluid is tested by the procedure specified in section 8.9(a) of SAE J70b, the black contrast lines on a hiding power chart shall be clearly discernible when viewed through the fluid in the centrifuge tube. The fluid shall show no stratification or sedimentation. Upon inversion of the centrifuge tube, the air bubble shall travel to the top of the fluid in not more than 10 seconds. At 60° C. or 140° F., when brake fluid is tested by the procedure specified in section 8.9(b) of SAE J70b, the fluid shall show no stratification, and sedimentation shall not exceed 0.05 percent by volume either before or after centrifuging.

(j) *Compatibility.* At minus 40° C. or minus 40° F., when brake fluid is tested by the procedure specified in section 8.10(a) of SAE J70b, the black contrast lines on a hiding power chart shall be clearly discernible when viewed through the fluid in the centrifuge tube.

The fluid shall show no stratification or sedimentation. At 60° C. or 140° F., when brake fluid is tested by the procedure specified in section 8.10(b) of SAE J70b, the fluid shall show no stratification, and sedimentation shall not exceed 0.05 percent by volume either before or after centrifuging.

(k) *Resistance to oxidation.* Brake fluid when tested by the procedure specified in section 8.11 of SAE J70b shall not cause the metal strips outside of the areas in contact with the tinfoil to be pitted nor roughened to an extent discernible to the naked eye, but staining or discoloration is permitted. No more than a trace of gum shall be deposited on the test strips outside of the areas in contact with the tinfoil. The aluminum strips shall not decrease in weight by more than 0.05 milligram per square centimeter and the cast iron strips shall not decrease in weight by more than 0.3 milligram per square centimeter.

(l) *Effect on rubber.* (1) Rubber brake cups subjected to brake fluid as specified in section 8.12(a) of SAE J70b shall show no increase in hardness, shall not decrease in hardness by more than 10 degrees, and shall show no disintegration as evidenced by excessive tackiness, blisters, or sloughing indicated by carbon black separation on the surface of the rubber cup. The increase in the diameter of the base of the cups shall not be less than 0.15 millimeter or 0.006 inch nor more than 1.4 millimeters or 0.055 inch.

(2) Rubber brake cups subjected to brake fluid as specified in section 8.12(b) of SAE J70b shall show no increase in hardness, shall not decrease in hardness by more than 15 degrees, and shall show no disintegration as evidenced by excessive tackiness, blisters, or sloughing indicated by carbon black separation on the surface of the rubber cup. The increase in the diameter of the base of the cups shall not be less than 0.15 millimeter or 0.006 inch nor more than 1.4 millimeters or 0.055 inch.

(m) *Simulated service performance.* Brake fluid when tested by both Procedure I and Procedure II specified in section 8.13 of SAE J70b shall meet the following performance requirements:

(1) Metal parts shall not show corrosion as evidenced by pitting to an extent discernible to the naked eye, but staining or discoloration shall be permitted.

(2) The initial diameter of any cylinder or piston shall not change by more than 0.13 millimeter or 0.005 inch during test.

(3) The average lip diameter interference set of the rubber cups shall not be greater than 65 percent.

(4) Rubber cups shall not decrease in hardness by more than 10 degrees in Procedure I or by more than 15 degrees in Procedure II and shall not be in an unsatisfactory operating condition as evidenced by excessive amounts of tackiness, scoring, scuffing, blistering, cracking, chipping (heel abrasion), or change in shape from original appearance.

(5) During any period of 24,000 strokes the volume loss of fluid shall not be more than 36 milliliters.

(6) The cylinder pistons shall not freeze nor function improperly throughout the test.

(7) The volume loss of fluid during the 100 strokes at the end of the test shall not be more than 36 milliliters.

(8) The condition of the fluid and brake cylinders at the end of test as evidenced by sludging, jelling, sedimentation, or grittiness shall not be such as would be likely to cause improper brake action in actual service.

(9) The base diameter of the rubber cups shall not increase by more than 0.9 millimeter or 0.035 inch.

§ 6.5 Changes in specifications.

Any person, firm or organization wishing to propose a change in these specifications may submit the detailed proposal in writing to the Director, National Bureau of Standards, U.S. Department of Commerce, Washington 25, D.C.

§ 6.6 Effective date.

The specifications prescribed herein shall become effective on June 3, 1963.

TABLE I—CORROSION TEST STRIPS AND WEIGHT CHANGES

Test strip	Weight change [1]
Tinned iron, type I, grade 1, class A–2 of Federal Specification QQ–T–425	0.2
Steel, SAE 1010	.2
Aluminum, SAE AA2024	.1
Cast iron, SAE 111 or strips from housing of wheel brake cylinder, smooth machined surfaces	.2
Brass, SAE 70C	.4
Copper, SAE 71	.4

[1] Maximum permissible weight change in milligram per square centimeter of surface.

[F.R. Doc. 63–8043; Filed, July 30, 1963; 8:58 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 8465 o.]

PART 13—PROHIBITED TRADE PRACTICES

Riviera Trading Corporation et al.

Subpart—Misbranding or mislabeling: § 13.1255 Manufacture or preparation; § 13.1295 Quality or grade.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Riviera Trading Corporation et al., New York, N.Y., Docket 8465, July 9, 1963]

In the Matter of Riviera Trading Corporation, a Corporation, and Morris Kliot, Edward Greenberg, and Louis M. Baum, Individually and as Officers of Said Corporation

Order requiring New York City distributors of sunglasses to retail dealers, to cease representing falsely on tags and labels attached to its products that its sunglasses possessed "six base optical quality lenses" when in fact the curvature of the lenses varied significantly from a curve of six diopters plus and six diopters minus.

The order to cease and desist is as follows:

It is ordered, That respondent Riviera Trading Corporation, a New York corporation, and its officers, and Boris Kliot and Lewis M. Baum, individually and as officers of said corporation, and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of sunglasses, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication: That their sunglass lenses have a given dioptric curve unless such is the fact; provided, however, that in the case of ground and polished sunglass lenses a tolerance not to exceed minus or plus 1/16th diopters in any meridian and a difference in power between any two meridians not to exceed 1/16th diopter and a prismatic effect not to exceed 1/8th diopter shall be allowed; and

It is further ordered, That respondents do forthwith cease and desist from placing in the hands of jobbers, retailers, dealers, and others, means and instrumentalities by and through which they may deceive and mislead the purchasing public concerning the merchandise in the respects set out above, and

It is further ordered That this complaint be and it hereby is dismissed as to respondent Edward Greenberg.

By "Final Order" report of compliance was required as follows:

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

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 63–8009; Filed, July 30, 1963; 8:46 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER A—GENERAL

PART 8—COLOR ADDITIVES

Subpart D—Listing of Color Additives for Food Use Exempt From Certification

β-APO-8'-CAROTENAL; STAY OF EFFECTIVE DATE OF EXEMPTION FROM CERTIFICATION

In the matter of listing β-apo-8'-carotenal as a safe color additive for use in or on foods and exempting it from certification:

In accordance with the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 701(e), 706 (b)(1), (c)(2), (d); 52 Stat. 1055 as amended; 74 Stat. 399, 402, 403; 21 U.S.C. 371(e), 376

(b)(1), (c)(2), (d)), and under the authority delegated to him by the Secretary of Health, Education, and Welfare (25 F.R. 8625), the Commissioner of Food and Drugs, based on a petition filed by Hoffman-LaRoche, Inc., Nutley, New Jersey, and other relevant material, promulgated an order on April 6, 1963 (28 F.R. 3382), listing β-apo-8'-carotenal as a safe color additive for use in or on foods and exempting it from certification. The act permits a period of 30 days for the filing of objections to an order. Within that period, the Certified Color Industry Committee filed objections to the paragraph exempting the color additive from certification, stating that it would be adversely affected by such an order and specifying its objection.

Having considered the objection filed, the Commissioner has concluded that the person objecting is adversely affected and that the objection is based on reasonable grounds. *Now therefore, it is ordered,* That the effective date of paragraph (e) of § 8.302, exempting β-apo-8'-carotenal from certification, be stayed.

Since the objection related only to the exemption from certification, the remainder of the section became effective on June 5, 1963. Pending resolution of the objection, batches of β-apo-8'-carotenal shall be certified in accordance with the regulations promulgated under Subpart A of this Part 8.

At a later date, the Commissioner will announce in the FEDERAL REGISTER the date and place of a public hearing.

(Secs. 701(e), 706 (b)(1), (c)(2), (d); 52 Stat. 1055 as amended; 74 Stat. 399, 402, 403; 21 U.S.C. 371(e), 376 (b)(1), (c)(2), (d))

Dated: July 24, 1963.

GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 63-8034; Filed, July 30, 1963; 8:53 a.m.]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 42—EGGS AND EGG PRODUCTS; DEFINITIONS AND STANDARDS OF IDENTITY

Dried Eggs, Dried Whole Eggs; Order Amending Standard of Identity

In the matter of amending the standard of identity for dried eggs, dried whole eggs, to provide for the optional use of less than 2 percent of sodium silicoaluminate as an anticaking ingredient:

A notice of proposed rule making in the above-identified matter was published in the FEDERAL REGISTER of June 7, 1963 (28 F.R. 5619). The standard for dried whole eggs, for which the amendment was proposed, provides that the finished food shall contain not less than 92 percent total egg solids. In effect, this provision limits the moisture content to 8 percent. The amendment proposed that the moisture content of dried whole eggs with added anticaking ingredient should be limited to not more than 5 percent. This guards against any substitution of anticaking ingredient for egg solids in the finished food. The notice invited interested persons to comment on the proposal. No comments were received.

In consideration of the information furnished by the petitioner, and other available data, it is concluded that it will promote honesty and fair dealing in the interest of consumers to amend the definition and standard of dried eggs, dried whole eggs as proposed. Therefore, pursuant to the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and delegated to the Commissioner of Food and Drugs by the Secretary (25 F.R. 8625): *It is ordered,* That the definition and standard of identity for dried eggs, dried whole eggs be amended to read as follows:

§ 42.30 Dried eggs, dried whole eggs; identity; label statement of optional ingredients.

(a) Dried eggs, dried whole eggs are prepared by drying liquid eggs. They may be powdered. Sodium silicoaluminate may be added as an optional anticaking ingredient, but the amount used is less than 2 percent by weight of the finished food. The moisture content of the finished food, if the optional anticaking ingredient is used, does not exceed 5 percent by weight; however, if the optional anticaking ingredient is not used the moisture content may exceed 5 percent, but it does not exceed 8 percent. The moisture content is determined by the method prescribed in "Official Methods of Analysis of the Association of Official Agricultural Chemists," Ninth Edition, 1960, sections 16.002–16.003, under "Total Solids."

(b) (1) When the optional anticaking ingredient, as provided in paragraph (a) of this section is used, the label shall bear the statement "Less than 2 percent sodium silicoaluminate added as an anticaking agent."

(2) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statement specified in subparagraph (1) of this paragraph, showing the optional ingredient used, shall immediately and conspicuously precede or follow such name, without intervening, written, printed, or graphic matter.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing, and such objections must be supported by grounds legally sufficient to justify the relief sought. Objections, preferably in triplicate, may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective 60 days from the date of its publication in the FEDERAL REGISTER, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be announced by publication in the FEDERAL REGISTER.

(Secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371)

Dated: July 24, 1963.

GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 63-8035; Filed, July 30, 1963; 8:54 a.m.]

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

SODIUM NITRATE; SODIUM NITRITE

The Commissioner of Food and Drugs, having evaluated data in a petition filed by Los Angeles Smoking and Curing Company, 778 Kohler Street, Los Angeles 21, California, and other relevant material, has concluded that the food additive regulations should be amended to prescribe further conditions of use of sodium nitrate and sodium nitrite. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)), and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (25 F.R. 8625), §§ 121.1063 and 121.1064 are amended in the following respects:

1. Section 121.1063(a)(1) is amended to read:

§ 121.1063 Sodium nitrate.

* * * * *

(a) * * *

(1) As a preservative and color fixative, with or without sodium nitrite, in smoked, cured salmon and smoked, cured shad, so that the level of sodium nitrate does not exceed 500 parts per million (0.05 percent) and the level of sodium nitrite does not exceed 200 parts per million (0.02 percent) in the finished product.

2. Section 121.1064(a)(2) is amended to read:

§ 121.1064 Sodium nitrite.

(a) * * *

(2) As a preservative and color fixative with or without sodium nitrate, in smoked, cured salmon and smoked, cured shad so that the level of sodium nitrite does not exceed 200 parts per million (0.02 percent) and the level of sodium nitrate does not exceed 500 parts per million (0.50 percent) in the finished product.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order

deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

Effective date. This order shall be effective on the date of its publication in the FEDERAL REGISTER.

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

Dated: July 3, 1963.

GEO. P. LARRICK,
Commission of Food and Drugs.

[F.R. Doc. 63-8036; Filed, July 30, 1963; 8:55 a.m.]

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

XYLITOL

The Commissioner of Food and Drugs, having evaluated data in a petition filed by Lorenz and Lihn, GmbH., Bad Godesberg-Mehlem, Germany, and other relevant material, has concluded that the food additive regulations should be amended to prescribe further uses of xylitol. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)), and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (25 F.R. 8625), § 121.1114 (21 CFR 121.1114; 28 F.R. 968) is amended to read as follows:

§ 121.1114 Xylitol.

Xylitol may be safely used in foods for special dietary uses, provided the amount used is not greater than that required to produce its intended effect.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

Effective date. This order shall be effective on the date of its publication in the FEDERAL REGISTER.

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

Dated: July 24, 1963.

GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 63-8037; Filed, July 30, 1963; 8:56 a.m.]

PART 121—FOOD ADDITIVES

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

RESINOUS AND POLYMERIC COATINGS

The Commissioner of Food and Drugs, having evaluated the data submitted in a petition filed by General Electric Company, Silicone Products Department, Waterford, New York, and other relevant material, has concluded that the food additive regulations should be amended to provide for the use of dibutyltin dilaurate as a curing catalyst for silicone polymers employed in the formulation of resinous and polymeric coatings intended for use in contact with food. The Commissioner has also concluded that the use of tin catalysts for silicone polymers should be limited to not more than the amount required to effect optimum cure, which shall not exceed one part of tin per 100 parts of silicone polymer solids. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)), and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (25 F.R. 8625), § 121.2514(b)(3)(xxviii) (21 CFR 121.2514; 28 F.R. 3587) is amended by adding a new item to (*b*). As amended (*b*) reads as follows:

§ 121.2514 Resinous and polymeric coatings.

* * * * *

(b) * * *
(3) * * *
(xxviii) * * *

(*b*) Catalysts (the maximum amount of tin catalyst used shall be that required to effect optimum cure but shall not exceed one part of tin per 100 parts of silicone polymer solids):

Dibutyltin dilaurate.
Tin oleate.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

Effective date. This order shall be effective on the date of its publication in the FEDERAL REGISTER.

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

Dated: July 24, 1963.

GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 63-8039; Filed, July 30, 1963; 8:57 a.m.]

PART 121—FOOD ADDITIVES

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

ANTIOXIDANTS AND/OR STABILIZERS FOR POLYMERS

The Commissioner of Food and Drugs, having evaluated the data submitted in a petition filed by Farbenfabriken Bayer A.G., Leverkusen, Federal Republic of Germany, and other relevant material, has concluded that the food additive regulations should be amended to provide for the use of *N,N'*-diphenylthiourea as an antioxidant and/or stabilizer in polymers used in the manufacture of articles or components of articles intended for use in contact with food. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)), and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (25 F.R. 8625), § 121.2566 (28 F.R. 1796, 5047) is amended by inserting alphabetically in paragraph (b) a new item, as follows:

§ 121.2566 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) List of substances:

	Limitations
* * *	* * *
N,N'-Diphenylthiourea	For use only: At levels not to exceed 0.5 percent by weight of polyvinyl chloride; or At levels not to exceed 0.5 percent by weight of vinyl chloride-vinyl acetate copolymers containing not more than 20 molar percent of vinyl acetate.
* * *	* * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of

Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

Effective date. This order shall be effective on the date of its publication in the FEDERAL REGISTER.

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

Dated: July 24, 1963.

GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 63-8038; Filed, July 30, 1963; 8:57 a.m.]

SUBCHAPTER C—DRUGS

PART 141a—PENICILLIN AND PENICILLIN-CONTAINING DRUGS; TESTS AND METHODS OF ASSAY

PART 146a—CERTIFICATION OF PENICILLIN AND PENICILLIN-CONTAINING DRUGS

Procaine Penicillin-Novobiocin-Polymyxin-Dihydrostreptomycin in Oil

No comments were received on the notice published in the FEDERAL REGISTER of June 5, 1963 (28 F.R. 5528), proposing to amend the regulations covering tests and methods of assay and certification of antibiotic and antibiotic-containing drugs (21 CFR Parts 141a, 146a) by adding thereto two new sections for procaine penicillin-novobiocin - polymyxin - dihydrostreptomycin in oil. Therefore, pursuant to the provisions of the Federal Food, Drug and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and under the authority delegated to the Commissioner of Food and Drugs by the Secretary of Health, Education, and Welfare (25 F.R. 8625); *It is ordered,* That the amendments proposed be adopted, with the following changes:

1. Section 141a.108 is changed from the proposal as follows:

a. In paragraph (a)(1), the second sentence is changed to read: "Place the equivalent of one dose of sample in a blending jar and add 1.0 milliliter of polysorbate 80 and a quantity of 1 percent potassium phosphate buffer, pH 6.0, sufficient to make a total of 500 milliliters.

b. In paragraph (a)(2), the second sentence is changed to read: "Place the equivalent of one dose of sample in a blending jar and add 1.0 milliliter of polysorbate 80 and a quantity of 0.1 *M* phosphate buffer, pH 8.0, sufficient to make a total of 500 millliliters, and blend for 5 minutes with a high-speed blender."

2. In proposed § 146a.10(a), the third sentence is changed to read: "It contains not less than 5,000 units and not more than 10,000 units of procaine penicillin, not less than 10 milligrams and not more than 15 milligrams of novobiocin, 5,000 units of polymyxin, and not less than 5 milligrams and not more than 10 milligrams of dihydrostreptomycin per milliliter, except that if the drug is intended for use by udder instillation, each single dose as recommended in its labeling contains not more than 100,000 units of penicillin."

Parts 141a and 146a are amended by adding thereto the following two new sections:

§ 141a.108 Procaine penicillin-novobiocin-polymyxin-dihydrostreptomycin in oil.

(a) *Potency*—(1) *Penicillin content.* Proceed as directed in § 141a.21(a)(1)(i) using the novobiocin resistant strain of Staphylococcus aureus (ATCC 12692), except prepare the sample as follows: Place the equivalent of one dose of sample in a blending jar and add 1.0 milliliter of polysorbate 80 and a quantity of 1 percent potassium phosphate buffer, pH 6.0, sufficient to make a total of 500 milliliters. Blend for 5 minutes with a high-speed blender and make appropriate dilutions, using 1 percent potassium phosphate buffer, pH 6.0. Its content of penicillin is satisfactory if it contains not less than 85 percent of the number of units that it is represented to contain.

(2) *Novobiocin content.* Proceed as directed in § 141a.21(c)(1), except prepare the sample as follows: Place the equivalent of one dose of sample in a blending jar and add 1.0 milliliter of polysorbate 80 and a quantity of 0.1 *M* phosphate buffer, pH 8.0, sufficient to make a total of 500 milliliters, and blend for 5 minutes with a high-speed blender. To an aliquot, add sufficient penicillinase to inactivate the penicillin, further dilute with 1 percent potassium phosphate buffer, pH 6.0, to give a final concentration of 0.5 microgram novobiocin per milliliter (estimated), and allow to stand for ½-hour at 37° C. before filling the cylinders on the plates. Its content of novobiocin is satisfactory if it contains not less than 85 percent of the number of milligrams that it is represented to contain.

(3) *Polymyxin content.* Using the equivalent of one dose of sample, proceed as directed in § 141a.86(a)(4). Its content of polymyxin is satisfactory if it contains not less than 85 percent of the number of units per milliliter that it is represented to contain.

(4) *Dihydrostreptomycin content.* Using the equivalent of one dose of sample, proceed as directed in § 141a.35(a)(5). Its content of dihydrostreptomycin is satisfactory if it contains not less than 85 percent of the number of milligrams per milliliter that it is represented to contain.

(b) *Moisture.* Proceed as directed in § 141a.7(c).

§ 146a.10 Procaine penicillin-novobiocin-polymyxin-dihydrostreptomycin in oil.

(a) *Standards of identity, strength, quality, and purity.* Procaine penicillin-novobiocin - polymyxin - dihydrostreptomycin in oil is a suspension of procaine penicillin, novobiocin, polymyxin, and dihydrostreptomycin in refined peanut oil, with or without one or more suitable and harmless dispersing and suspending agents. It may contain a suitable local anesthetic, a suitable and harmless preservative, and cortisone or one or more suitable derivatives of cortisone. It contains not less than 5,000 units and not more than 10,000 units of procaine penicillin, not less than 10 milligrams and not more than 15 milligrams of novobiocin, 5,000 units of polymyxin, and not less than 5 milligrams and not more than 10 milligrams of dihydrostreptomycin per milliliter, except that if the drug is intended for use by udder instillation, each single dose as recommended in its labeling contains not more than 100,000 units of penicillin. The moisture content is not more than 1.0 percent. The procaine penicillin used conforms to the requirements of § 146a.44(a), except § 146a.44(a) (2), (3) and (4). The novobiocin used conforms to the standards prescribed for novobiocin by § 146a.53(a), except the standard for toxicity. The polymyxin used conforms to the requirements of § 146b.107(a), except the standard for toxicity. The dihydrostreptomycin used conforms to the standards prescribed by § 146b.103 and § 146b.106, except the standards for sterility, toxicity, pyrogens, and histamine, or by § 146b.114(a), except the standard for toxicity. Each other substance used, if its name is recognized in the U.S.P. or N.F., conforms to the standards prescribed therefor by such official compendium.

(b) *Packaging; labeling; request for certification, samples; fees.* The drug conforms to all requirements and procedures prescribed for penicillin ointment by § 146a.26(b) (except that procaine penicillin-novobiocin-polymyxin-dihydrostreptomycin in oil may be packaged in plastic tubes), (c), (d), and (e), except that:

(1) In addition to the labeling prescribed for penicillin ointment by § 146a.26(c), if it contains one or more of the active ingredients specified in paragraph (a) of this section, each package shall bear on the outside wrapper or container and the immediate container, after the name "procaine penicillin-novobiocin-polymyxin-dihydrostreptomycin in oil", wherever it appears, the words "with ----------," the blank being filled in with the common or usual name of each such other ingredient in juxtaposition with such name.

(2) In addition to complying with the requirements of § 146a.26(d), a person who requests certification of a batch shall submit with his request a statement showing the batch mark and (unless they were previously submitted) the results and the dates of the latest tests and assays of the novobiocin (for potency, pH, moisture, and crystallinity), poly-

myxin (for potency), and dihydrostreptomycin (for potency, moisture, pH, streptomycin content, and crystallinity if it is crystalline dihydrostreptomycin) used in making the batch; the number of units of penicillin, the number of milligrams of novobiocin, the number of units of polymyxin, and the number of milligrams of dihydrostreptomycin per milliliter. He shall also submit in connection with his request a sample consisting of not less than eight immediate containers of the batch and (unless they were previously submitted) samples consisting of five packages of the polymyxin and six packages each of the novobiocin and dihydrostreptomycin used in making the batch, each package containing approximately equal portions of not less than 0.5 gram.

(3) The fees for the services rendered with respect to the samples submitted in accordance with the requirements of subparagraph (2) of this paragraph shall be:

(i) $6.00 for each immediate container of the batch.

(ii) $4.00 for each immediate container in the samples of novobiocin, polymyxin, and dihydrostreptomycin used in making the batch.

Effective date. This order shall be effective on the date of its publication in the FEDERAL REGISTER.

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

Dated: July 24, 1963.

GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 63-8040; Filed, July 30, 1963; 8:58 a.m.]

Title 41—PUBLIC CONTRACTS

Chapter 6—Department of State

[Dept. Reg. 108.497]

PART 6-1—GENERAL

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Subpart 6-1.8—Labor Surplus Area Concerns

6-1.800 Scope of subpart.

Subpart 6-1.9—Reporting Possible Anti-Trust Violations

6-1.901 General.

AUTHORITY: §§ 6-1.101 to 6-1.901 issued under 63 Stat. 111, as amended, 63 Stat. 377 as amended.

Subpart 6-1.1—Introduction

§ 6-1.101 Scope of subpart.

This subpart describes the Department of State Procurement Regulations in terms of establishment, relationship to the Federal Procurement Regulations (FPR), arrangement, applicability, and deviation procedure. Procurement procedures are integrated with the regulations so as to provide a complete, logical and comprehensive publication.

§ 6-1.102 Purpose.

This subpart establishes the Department of State Procurement Regulations (DOSPR) as Chapter 6 of the Federal Procurement Regulations System.

§ 6-1.103 Authority.

The DOSPR are prescribed by the Secretary of State pursuant to the Act of May 26, 1949 (63 Stat. 111), as amended, and the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended.

§ 6-1.104 Relationship of the DOSPR to the FPR.

The regulations in the DOSPR implement, supplement, and in some instances deviate from the FPR. Implementing material is that which expands upon or indicates the manner of compliance with related FPR material. Deviating material is defined in section 1-1.009. Supplementing material is that for which there is no counterpart in the FPR.

§ 6-1.105 Applicability.

(a) The DOSPR and the FPR apply to all procurement of personal property and nonpersonal services (including construction) by the Department of State both within and outside the United States, except, however, that they shall not apply to those operations which enjoy exemption from the Federal Property and Administrative Services Act of 1949, as amended.

(b) The DOSPR and the FPR do not purport to apply to the acquisition or leasing of real property.

§ 6-1.106 Exclusions.

Certain Department of State policies and procedures which come within the scope of this chapter nevertheless may be excluded from the DOSPR. These exclusions include the following categories:

(a) Subject matter which bears a security classification.

(b) Policy or procedure which is expected to be effective for a period of less than six months.

(c) Policy or procedure which is being instituted on an experimental basis for a reasonable period.

§ 6-1.107 Issuance.

Regulations contained in the DOSPR deemed necessary for business concerns, and others properly interested, to understand basic and significant Department of State procurement policies are published in the Code of Federal Regulations (CFR) as Chapter 6 of Title 41, Public Contracts, and are published in issues of the FEDERAL REGISTER and in separate loose-leaf volume form.

§ 6-1.108 Arrangement.

§ 6-1.108-1 General plan.

The DOSPR conform with the style and arrangement of the FPR.

§ 6-1.108-2 Numbering.

Material in the DOSPR which implements or deviates from related material in the FPR is captioned and numbered to correspond with such material in the FPR, except that while the first digit of the FPR number is 1, the first digit of the DOSPR number is 6. Material in the DOSPR which supplements the FPR will be assigned numbers 50 or above at the part, subpart, section, or subsection at which there is no counterpart material in the FPR. For an example, see section 6-1.350. Where material in the FPR requires no implementation or deviation there is no corresponding number in the DOSPR. Thus, there are gaps in the DOSPR sequence of numbers where the FPR as written are applicable to Department of State procurement.

§ 6-1.108-3 Citation.

The DOSPR will be cited in the same manner as the FPR are cited. Thus, this section, when referred to in divisions of the FPR System, should be cited as "section 6-1.108-3 of this chapter." When this section is referred to formally in official documents, such as legal briefs, it should be cited as "41 CFR 6-1.108-3." Any section of the DOSPR may be informally identified, for purposes of brevity, as "DOSPR" followed by the section number, such as "DOSPR 6-1.108-3."

§ 6–1.109 Control of deviations.

In the interest of establishing and maintaining uniformity to the greatest extent feasible, deviations from the FPR System shall be kept to a minimum and controlled as follows:

(a) Requests for deviations from the FPR and from the DOSPR, in individual cases and in classes of cases, shall be forwarded to the Department by operations memorandum, subject: Supplies and Equipment or Buildings, as appropriate. A statement setting forth the nature of the deviation and the reasons for the special action sought shall be included with the request, and a copy thereof shall be included in the contract file.

(b) Deviations from the FPR and the DOSPR in individual cases, and from the DOSPR in classes of cases, may be authorized by the Deputy Assistant Secretary for Operations or his designee, or the Deputy Assistant Secretary for Foreign Buildings or his designee, as appropriate.

(c) Deviations from the FPR in classes of cases will be considered jointly by the Department of State and the General Services Administration (GSA) unless, in the considered judgment of the Assistant Secretary for Administration and with due regard to the objective of uniformity, circumstances preclude such effort. In such case the Assistant Secretary for Administration will approve such class deviations as he determines necessary and will notify GSA of such action.

Subpart 6–1.2—Definition of Terms

§ 6–1.201 Definitions.

For the purpose of this chapter, and unless otherwise indicated, the following terms have the meanings set forth in this subpart.

§ 6–1.250 Government.

"Government" means the Government of the United States of America unless specifically stated otherwise.

§ 6–1.251 Department.

"Department" means the Department of State, including all of its activities, wherever located.

§ 6–1.252 Post.

"Post" means a diplomatic or consular post of the United States of America.

§ 6–1.253 Local procurement.

"Local procurement" means procurement by a post in the country in which the post is located.

§ 6–1.254 Third country procurement.

"Third country procurement" means procurement by a post in a country other than the country in which the post is located and other than the United States.

§ 6–1.255 Central supply post.

"Central supply post" means a post designated to:

(a) Assist and supervise constituent supply posts in the acquisition of personal property and nonpersonal services, and/or

(b) Accomplish its own acquisition of personal property and nonpersonal services without supervision in connection therewith from another post.

§ 6–1.256 Constituent supply post.

"Constituent supply post" means any post other than a central supply post.

§ 6–1.257 Supplies.

"Supplies" means personal property, including equipment.

§ 6–1.258 Services.

"Services" means nonpersonal services.

Subpart 6–1.3—General Policies

§ 6–1.302 Procurement sources.

§ 6–1.302–1 General.

(a) Use of the Federal Prison Industries as a source of supply is not required in connection with supplies which are both procured and used outside the United States. Use of the other sources of supply referred to in section 1–1.302–1(a) is not required in connection with supplies which are procured either inside or outside the United States for use outside the United States.

(b) Notwithstanding, in obtaining supplies or services to be used outside the United States the sources of supply listed in section 1–1.302–1(a) shall be used wherever, in the judgment of the procurement officer, requirements can be met satisfactorily on a timely basis by using such sources and it is prudent and otherwise in the national interest to do so.

§ 6–1.302–2 Production, research and development pools.

Section 1–1.302–2 is not applicable to procurement by the Department outside the United States. Defense Production Act of 1950 (50 App. U.S.C. 2163).

§ 6–1.307 General requirements.

Many services needed by the Government could be obtained by means of either personal service or nonpersonal service contracts. The distinction between the two is always one that rests on balancing all the factors in any individual case. Examples of the kinds of determinations that must be made to distinguish a personal service from a nonpersonal service contract are found on page 2 of the Department's Foreign Affairs Manual Circular 40 dated November 29, 1961. In a personal service contract, the contractor is always an agent of the Government and never an independent contractor. However, it is sometimes true that in a nonpersonal service contract the contractor is an agent of the Government rather than an independent contractor. It is imperative that the services to be procured by means of nonpersonal service contracts be clearly and accurately described. Examples of the Schedule of Supplies and Services containing illustrative purchase descriptions for some typical nonpersonal services are contained in Subpart 6–16.9.

§ 6–1.311 Priorities, allocations, and allotments.

Section 1–1.311 is not to be applied to procurement by the Department outside the United States.

§ 6–1.350 Procurement by Posts within the United States.

(a) Posts shall make no procurement within the United States except:

(1) Procurement which can be effected from contracts of Government agencies, such as Federal Supply Schedule contracts, or

(2) Procurement which can be effected under the small purchase procedure set forth in Subpart 1–3.6. Subpart 1–3.6 prescribes policies and procedures for the purchasing of supplies and nonpersonal services from commercial sources when the aggregate amount involved in any one transaction does not exceed $2,500. For this purpose, the aggregate amount includes the cost of the procurement items and related expenditures, such as freight and packing, which are covered by the purchase order.

(b) In accomplishing procurement under section (a) above, posts shall be subject to the following additional limitations:

(1) Due to budgetary limitations, supplies in the nature of motorized transportation equipment, such as, but not limited to, automobiles, jeeps, trucks, motorcycles, and boats shall not be procured without the prior written approval of the Department.

(2) The Foreign Service Procurement Handbook provides that certain supplies may only be obtained by requisition from the Department. Such supplies shall not be procured from any other source.

(c) Material contained in 6–5.5006–1e may be used as a guide in preparing packing, shipping and invoicing instructions to Stateside suppliers, insofar as it is applicable.

§ 6–1.351 Numbering written contracts.

§ 6–1.351–1 Policy.

All written contracts shall be numbered.

§ 6–1.351–2 Definitions.

(a) "Written contract." For the purpose of this section, the term "written contract" means a contract made in writing and signed by both of the parties thereto. Such a contract may be a single document bearing the signatures of both parties or a group of documents properly signed. For example, when competitive bids are obtained, the written contract will normally consist of an invitation to bid issued by a contracting officer, an offer signed by the supplier and an acceptance of offer signed by a contracting officer.

(b) "Contract symbol number." For the purposes of this section, the term "contract symbol number" means the number assigned to each post for use in designating written contracts used for procurement of that post. When assigning a number to a written contract, the contract symbol number of the post for which the procurement has been effected shall be used, not the contract symbol number of the post, such as a fiscal servicing post, where the written contract may actually have been prepared or executed.

§ 6–1.351–3 Numbering.

(a) *Post series.* The post series shall contain all written contracts for procurement for a post except those contracts described in paragraphs (b) and (d) of this subsection. The number for a contract in the post series shall be constructed as follows:

(1) The capital letter S, signifying the Department of State;

(2) The contract symbol number of the post for which the procurement has been made;

(3) The small letters fa preceded by a dash, signifying foreign administration; and

(4) A number preceded by a dash to be assigned to each contract in the post series.

For example, the third contract in the post series for Accra would be numbered S424–fa–3.

(b) *FBO series.* The FBO series shall contain all post issued written contracts utilizing Office of Foreign Buildings funds. Also real estate leases utilizing Office of Foreign Buildings funds or other funds may be numbered in this series as required under the regulations governing leasing set forth in 6 FAM 700. The number for a contract in the post FBO series shall be constructed as follows:

(1) The capital letter S, signifying the Department of State;

(2) The contract symbol number of the post for which the procurement has been made;

(3) The capital letters FBO preceded by a dash, signifying the Office of Foreign Buildings; and

(4) A number preceded by a dash to be assigned to each contract in the FBO series.

For example, the third contract in the FBO series for Accra would be numbered S424–FBO–3.

(c) *Department's Washington series.* The Department's Washington series shall contain all written contracts for procurement awarded by the Department from an office located within the United States except those contracts described in paragraph (d) of this subsection. The number for a contract in the Department's Washington series shall be constructed as follows:

(1) The capital letters SCC;

(2) A number preceded by a dash to be assigned to each contract in the Department's Washington series.

For example, the third contract in the Department's Washington series would be numbered SCC–3.

(d) *Contracts for other federal agencies.* Any contracts made for other federal agencies shall be numbered in accordance with the instructions of the agency concerned.

(e) *Reopening of post.* If a post is closed and subsequently reopened, numbers shall be assigned using the same contract symbol number and consecutive series used before the post was closed, commencing with the next consecutive number following the last number used prior to the closing of the post.

(f) *Contracts composed of several documents.* If the contract is composed of more than one document, all the documents composing the contract shall be secured together and assigned one contract number.

(g) *Contract modifications.* Contract modifications shall be given the same number as the existing contract, followed by the words "Amendment No.", and a number assigned consecutively beginning with the number "1" for each contract.

§ 6–1.351–4 Recording numbers.

Each contract number and the nature of the contract to which it is assigned shall be recorded promptly in consecutive numerical order (within the appropriate series) in a contract record book or a contract register. One such record book or register shall be maintained by each post and one shall be maintained by the Division of Supply and Transportation Management in Washington.

§ 6–1.352 Distribution of written contracts.

§ 6–1.352–1 Definition.

"Written contract." For the purpose of this section, the term "written contract" means a contract made in writing and signed by both of the parties thereto. Such a contract may be a single document bearing the signatures of both parties or a group of documents properly signed. For example, when competitive bids are obtained, the written contract will normally consist of an invitation to bid issued by a contracting officer, an offer signed by the supplier and an acceptance of offer signed by a contracting officer.

§ 6–1.352–2 Distribution.

(a) Post series. Written contracts numbered in the post series under section 6–1.351–3(a) shall be distributed as follows:

(1) The signed original together with the original of the SF–1036 (see section 6–2.407–7 and section 6–3.250) shall be forwarded to the Department under cover of an operations memorandum, Subject: Finance.

(2) One signed copy shall be furnished to the contractor whenever feasible.

(3) One signed copy shall be retained in the contract file.

(b) FBO series. Written contracts numbered in the FBO series under section 6–1.351–3(b) shall be distributed as follows:

(1) The signed original and one signed copy shall be forwarded to the Department by operations memorandum, Subject: Buildings. The transmittal shall specify the appropriation against which the contract will be paid and shall refer to the Departmental authority, if any, by which the contract was entered into.

(2) One signed copy shall be furnished to the contractor.

(3) One signed copy shall be retained in the contract file.

(c) Department's Washington series. Written contracts numbered in the Department's Washington series under section 6–1.351–3(c) shall be distributed as follows:

(1) The signed original together with the original of the SF–1036, if required, shall be forwarded to the Department's Office of Finance.

(2) One signed copy shall be furnished to the contractor.

(3) One signed copy shall be retained in the contract file.

(d) Where the law of a foreign country requires that the original of a written contract be retained in the country, a signed copy shall be forwarded to the Department in lieu of the original.

§ 6–1.353 English language translations.

If any part of a contract is not written in the English language, an accurate translation of such part shall be attached to the original and each copy of the contract whenever such action is determined to be feasible by the contracting officer.

§ 6–1.354 Procurement from employees of the Government.

No procurement of supplies, equipment or services may be made from any employee of the Government through contract, purchase order or any other method of procurement, except where a service or product is not otherwise obtainable and such a determination is made in writing by the principal officer or the Chief of the Department's Division of Supply and Transportation Management and retained as a part of the procurement file.

Subpart 6–1.6—Debarred and Ineligible Bidders

§ 6–1.601 Purpose.

This subpart prescribes the establishment, use and maintenance of the Department of State Debarred and Ineligible Bidders List.

§ 6–1.602 Establishment and maintenance of a list of firms and individuals debarred or ineligible.

(a) In line with the provisions of section 1–1.602 the Department shall maintain a "Debarred and Ineligible Bidders List" issued semi-annually, and the list shall be kept current by issuance of notices of additions and deletions. This list shall be furnished to procurement personnel operating within and outside the United States.

(b) The cover or first sheet of this unclassified list will bear the notation: "This Document is for Official Use Only. It must be kept in a safe place inaccessible to unauthorized persons."

§ 6–1.606 Department of State procedure for administrative debarment.

(a) Administrative debarment may be initiated by any Contracting Officer of the Department.

(b) The recommendation for debarment together with a statement of the causes or conditions (section 1–1.605), the suggested term of debarment and documentary evidence to support the recommendation will be submitted to the Chief, Division of Supply and Transportation Management of the Department for transmittal to the Department's Contract Board.

(c) Should the Contract Board approve the recommendation, the findings

shall be forwarded through the Legal Adviser of the Department to the Assistant Secretary of State for Administration for final decision and return to the Board.

Subpart 6–1.8—Labor Surplus Area Concerns

§ 6–1.800 Scope of subpart.

Subpart 1–1.8 is not applicable to procurement by the Department outside the United States. (32A CFR Ch. I; 25 F.R. 5283)

Subpart 6–1.9—Reporting Possible Anti-Trust Violations

§ 6–1.901 General.

Reports of possible anti-trust violations shall be forwarded by contracting officers of the Department to the Division of Supply and Transportation Management in Washington. These reports shall include the documents and additional information required pursuant to sections 1–1.902 and 1–1.903.

Dated: July 23, 1963.

For the Secretary of State.

WILLIAM R. LITTLE,
Acting Assistant Secretary for Administration.

[F.R. Doc. 63–8023; Filed, July 30, 1963; 8:49 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 15065 (RM–415), FCC 63–687]

PART 7—STATIONS ON LAND IN THE MARITIME SERVICES

PART 8—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

Assignment of Certain Frequencies in the Vicinity of Norfolk, Virginia

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 24th day of July 1963.

The Commission having under consideration the above-captioned matter;

It appearing, that in accordance with the requirements of section 4 (a) and (b) of the Administrative Procedure Act, notice of proposed rule making in this matter which made provision for the submission of written comments by interested parties, was published in the FEDERAL REGISTER on May 8, 1963 (28 F.R. 4662), and the period for filing comments has now expired; and

It further appearing, that no comments or objections to the amendments proposed were received; and

It further appearing, that the public interest, convenience, and necessity will be served by the amendment herein ordered, the authority for which is contained in section 303 (c), (d), (f) and (r) of the Communications Act of 1934, as amended:

It is ordered, That effective September 9, 1963, Parts 7 and 8 of the Commission's rules are amended as set forth below.

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

Released: July 26, 1963.

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

A. Part 7 is amended as follows:

1. The table in § 7.306(b) is amended to read as follows at the entry for Norfolk-Quantico, Virginia:

§ 7.306 Availability of frequencies below 30 Mc/s.

* * * * *

(b) * * *

Coast stations located in the vicinity of—	Coast station transmitting carrier frequency [1]		Associated coast station receiving carrier frequency	
	Frequency (kc/s)	Specific limitations imposed upon availability for use [2]	Frequency (kc/s)	Specific conditions relating to use of these frequencies by ship stations for transmission as shown in § 8.354(a)(1) of this chapter [2]
* * *	* * *	* * *	* * *	* * *
Norfolk-Quantico, Va	2538 2450	None Day only, available on condition that no harmful interference will be caused to any service or any station which in the discretion of the Commission may have priority on the frequency or frequencies used for the service to which interference is caused.	2142 2366	None. Day only, available on condition that no harmful interference will be caused to any service or any station which in the discretion of the Commission may have priority on the frequency or frequencies used for the service to which interference is caused.

B. Part 8 is amended as follows:

1. The table in § 8.354(a)(1) is amended to read as follows at the entry for Norfolk-Quantico, Virginia:

§ 8.354 Frequencies below 5000 kc/s for public correspondence.

(a) * * *

(1) * * *

For communication with coast stations located in the vicinity of—	Mobile station transmitting carrier frequency [1]		Associated coast station carrier frequency	
	Frequency (kc/s)	Specific limitations imposed upon availability for use [2]	Frequency (kc/s)	Specific conditions relating to use of these frequencies by coast stations for transmission as shown in § 7.306(b) of this chapter [2]
* * *	* * *	* * *	* * *	* * *
Norfolk-Quantico, Va	2142 2366	None Day only, available on condition that no harmful interference will be caused to any service or any station which in the discretion of the Commission may have priority on the frequency or frequencies used for the service to which interference is caused.	2538 2450	None. Day only, available on condition that no harmful interference will be caused to any service or any station which in the discretion of the Commission may have priority on the frequency or frequencies used for the service to which interference is caused.

[F.R. Doc. 63–8050; Filed, July 30, 1963; 9:01 a.m.]

[Docket No. 15078 (RM–417), FCC 63–688]

PART 9—AVIATION SERVICES

Report and Order Relating to Cooperative Use of Facilities

1. Notice of proposed rule making in the above-entitled matter was released by the Commission on May 17, 1963. This notice, which made provision for the filing of comments by June 24, 1963, was published in the FEDERAL REGISTER on May 24, 1963 (28 F.R. 5216).

2. The present rule making was initiated in response to a petition for rule making (RM417) filed by the Aerospace Flight Test Radio Coordinating Council (AFTRCC). The petition requested that § 9.613 be amended to permit, after an adequate showing, more than one flight test station for operation on the ground at an airdrome.

3. Comments in this proceeding were filed by Aerospace Flight Test Radio Coordinating Council (AFTRCC), Aerospace Industries Association of America, Inc., Aircraft Owners and Pilots Association (AOPA), and ASTRO Corporation. All respondents favored the proposed amendment of § 9.613.

4. The amendment adopted herein will relax the requirement of § 9.613 which limits one flight test station for operation on the ground to an airdrome. Such additional ground stations, however, will be required to make a satisfactory showing of need before the additional facility will be authorized. It is apparent from the comments filed in this proceeding that the public interest will be served by this amendment and the Commission so finds.

5. The language in the attached Appendix is essentially the same as that proposed in the notice; however, certain editorial changes have been made to § 9.613 (b) and (d).

6. In view of the foregoing: *It is ordered,* Pursuant to the authority contained in section 303 (d), (f), and (r) of the Communications Act of 1934, as amended, that effective September 9, 1963, Part 9 of the Commission's rules is amended as set forth below.

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

Adopted: July 24, 1963.

Released: July 26, 1963.

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

Section 9.613 is amended to read as follows:

§ 9.613 Cooperative use of facilities.

(a) Except as provided in paragraph (d) of this section, only one flight test station for operation on the ground will be licensed to serve an airdrome.

(b) Flight test stations for operation on the ground will be required to provide service without discrimination, but on a cooperative maintenance basis, to all eligible for a license for flight test station.

(c) Where licensees desire to conduct flight tests in adjacent airdrome control areas, or where radio interference may result from simultaneous operation of stations at nearby airdromes, they shall arrange for a satisfactory time division by mutual agreement. If such an agreement cannot be reached the Commission will determine and specify the time division upon request of either licensee.

(d) An application for an additional flight test station for operation on the ground at an airdrome where such a station is already authorized shall be accompanied by a factual showing of such factors as may have a bearing upon the particular case and shall include the following:

(1) That there has been coordination with the current licensee(s) of the flight test station(s) at the airdrome;

(2) The results of such coordination;

(3) That the additional station can be accommodated without undue degradation of the reliability of existing facilities; and,

(4) That there are valid reasons why use of the currently licensed facilities, on a shared basis, is not in the best interest of flight test communications.

[F.R. Doc. 63-8051; Filed, July 30, 1963; 9:01 a.m.]

Proposed Rule Making

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 199]

UINTAH INDIAN IRRIGATION PROJECT, UTAH

Notice of Proposed Rule Making

Basis and purpose. Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by the Revised Statutes, section 161, 463 and 465 (5 U.S.C. 22, 25 U.S.C. 2 and 9), and the acts of June 21, 1906 (34 Stat. 375), and April 4, 1910 (36 Stat. 270), it is proposed to amend Part 199 of Title 25 of the Code of Federal Regulations dealing with the rules and regulations governing the management of the Uintah Indian Irrigation Project, Utah, as set forth below. The purpose of the amendment is to eliminate provisions no longer applicable, change regulations to conform to present Bureau organization and operations and add a new § 199.23 providing for carriage agreements.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rule making process. Accordingly, interested persons may submit written comments, suggestions or objections with respect to the proposed revisions to the Bureau of Indian Affairs, Washington 25, D.C., within thirty days of the date of publication of this notice in the FEDERAL REGISTER.

Part 199 of Title 25 of the Code of Federal Regulations is revised to read as follows:

Sec.

199.1 Organization.
199.2 Irrigation season.
199.3 Domestic and stock water.
199.4 Farm units defined.
199.5 Delivery point.
199.6 Method of delivery.
199.7 Delivery to lands under the Duchesne River.
199.8 Division of water.
199.9 Lands under Duchesne River not subject to water division.
199.10 Waste water.
199.11 Construction of waste water ditches.
199.12 Water may be shut off if wasted.
199.13 Structures.
199.14 Head or service ditches.
199.15 Right-of-way.
199.16 Obstructions and their removal.
199.17 Fencing.
199.18 Assessments.
199.19 Place of payment of assessments.
199.20 Interference with project operation.
199.21 Crop and statistical report.
199.22 Complaints.
199.23 Carriage agreements.

AUTHORITY: §§ 199.1 to 199.23 issued under secs. 1, 3, 36 Stat. 270, 272, as amended; 25 U.S.C. 385.

CROSS REFERENCE: For rights-of-way for the construction of irrigation projects, Uintah Reservation, Utah, see Part 161 of this chapter.

§ 199.1 Organization.

The Uintah project is under the charge of the Superintendent, Uintah and Ouray Agency, acting through the project engineer, who is fully authorized to administer, carry out and enforce the rules and regulations in this part, either directly or through project employees delegated by him, such as watermasters, ditchriders, foremen and other assistants. The project engineer or his representative is fully authorized to refuse or discontinue delivery of water to any person who willfully disregards the rules and regulations in this part.

§ 199.2 Irrigation season.

Water will be turned into the canals and laterals on March 1 for irrigation purposes and discontinued on November 1. The time when water will be turned into the canals and laterals may be postponed for 15 days and the time for discontinuing the flow may be advanced 15 days, depending upon weather conditions and the amount of maintenance work to be done.

§ 199.3 Domestic and stock water.

Irrigation projects are primarily built and maintained for serving land with water for the irrigation of crops during the growing season and not for supplying domestic and stock water during the winter months or non-irrigation season. Domestic and stock water will be carried in the project canals before and after the irrigation season only when such practice will not be detrimental to the canal system. Domestic or stock water will not be carried in project canals when such use of the canals will interfere with maintenance work necessary in preparing the canals and laterals for the next irrigation season.

§ 199.4 Farm units defined.

For the purpose of the rules and regulations in this part and the delivery of water, a farm unit on the Uintah project shall consist of:

(a) Forty or more contiguous acres of land in single ownership.

(b) Forty or more contiguous acres of Indian-owned land under lease to the same person or being farmed by the same Indian.

(c) A minimum of 40 contiguous acres of land in multiple ownership provided that such contiguous 40 acres shall be within the same 40-acre subdivision of the United States public land surveys.

§ 199.5 Delivery point.

Water will be delivered by the project to one point on the upper boundary of each farm unit on the project, and the project shall maintain the lateral system to said delivery point: Provided, however, That where, under the system as at present constructed, there has been established a point of delivery for a farm unit, no further extensions to the project lateral system will be made by the project, even though such farm unit be subdivided into tracts of 40 acres or more under the same or different ownership. Any additional laterals necessary to deliver water to such subdivided tracts of said farm units as originally established shall be constructed by the landowner, at his expense, so as to receive water from the delivery point as originally established for said farm unit, and said lateral or laterals shall be thereafter, at all times, maintained and operated by the owner or owners benefited. In special cases where from a cost or topographic standpoint it is impracticable for the landowner or lessee to irrigate the entire irrigable area of his tract from one delivery point, the project engineer is authorized to establish additional delivery points but in no instance shall more than one delivery point be established and maintained when the landowner or lessee can at a reasonable expense provide for delivery by the construction of suitable head ditches.

§ 199.6 Method of delivery.

Water for irrigation purposes will be delivered through the irrigation season for the lands under the Lakefork, Uintah, and Whiterocks Rivers by the rotation method. Rotation schedules for the lands under the canals diverting from these rivers will be prepared under the direction of the project engineer and will be put into effect each season as soon as it is determined what acreage is to be irrigated. A written copy of the water schedule will be delivered to each water user showing the time that his turn starts on each particular tract and the duration of such turn.

§ 199.7 Delivery to lands under the Duchesne River.

Water will be delivered to all lands under the Duchesne River upon demand until such time as the project engineer deems it advisable to adopt the rotation method of delivery. In the event the rotation method is adopted under the canals diverting from this river the same procedure will be followed that is used under the Lakefork, Uintah, and Whiterocks Rivers: Provided, That the project engineer shall first give reasonable notice, in advance, to all users to be affected by adoption of same.

§ 199.8 Division of water.

Water will be delivered to all lands under the Lakefork, Uintah and Whiterocks Rivers in accordance with the provisions of the decrees of the Federal court in the cases of United States v. Dry Gulch Irrigation Company, et al.[1] and United States v. Cedarview Irrigation Company, et al.,[1] which decrees fix the maximum duty of 3 acre-feet per acre for the period from March 1 to November 1 of each year. The division

[1] Unreported case.

of water in all cases shall be made or authorized by a watermaster or ditchrider; and any person who in any manner interferes with the flow of water within or from the project canal, or who opens, closes or in any manner changes the position of a headgate in a project canal or lateral without specific authority to do so, will be liable to prosecution. The cutting of a canal or lateral bank for the purpose of diverting water from the canal and the placing of obstruction in a canal or lateral for the purpose of increasing or decreasing the amount of flow through a project canal headgate will be considered a violation of this section. The rate of delivery will be substantially in accordance with the following schedule, which schedule is subject to modification by the project engineer at such time as changed climatic and water supply conditions might prove that such modification would be beneficial to the projects:

Period	Acres per second-foot	Acre-feet per acre
Mar. 1–18	None	None
Mar. 19–31	1,000	0.023
Apr. 1–10	800	.025
Apr. 11–20	400	.050
Apr. 21–30	200	.099
May 1–10	180	.110
May 11–20	135	.147
May 21–31	95	.229
June 1–20	70	.566
June 21–30	85	.233
July 1–10	90	.220
July 11–20	95	.208
July 21–31	100	.218
Aug. 1–10	133	.147
Aug. 11–20	155	.128
Aug. 21–31	175	.124
Sept. 1–10	195	.101
Sept. 11–30	220	.180
Oct. 1–10	220	.090
Oct. 11–20	300	.066
Oct. 21–31	600	.036
		3.000

§ 199.9 Lands under Duchesne River not subject to water division.

The lands deriving water from the Duchesne River will not be subject to the above water duty as long as there is an ample water supply in the Duchesne River. These lands, however, may be reduced to the above water duty at any time that the Duchesne River fails to supply more water than is included in § 199.8.

§ 199.10 Waste water.

Wasting of water will subject users to regulatory action. Water users will be required to construct and maintain in good order and repair such ditches as may be necessary to catch and conduct to some waste canal, ditch or channel all waste water flowing from their lands. Waste water may be emptied into project canals, laterals and drain ditches at such points only as have been designated for that purpose by the project engineer.

§ 199.11 Construction of waste water ditches.

No waste water ditches shall be constructed upon the right-of-way of any project canal or lateral except where the same crosses or intersects said canal or lateral. Any such crossing or intersection shall be designated by the project engineer and the necessary works shall be constructed in accordance with his instructions.

§ 199.12 Water may be shut off if wasted.

The project management shall have the right to shut off summarily water from any lands where water is being unnecessarily wasted or where the provisions of this section are being violated by the owners of such land or by any person who may be in charge of such land under authority of the owner.

§ 199.13 Structures.

(a) All necessary headgates, checks, drops, turnouts, flumes and measuring devices will be installed and maintained by the project. Any person or corporation desiring to build a bridge or other structures over, under, in or across a project canal, lateral or drainage ditch, shall first obtain from the project engineer a written permit to build such structures, which permit shall stipulate that it is granted, and accepted by the permittee, on the condition that the repair and maintenance of the structures shall be the duty of the permittee, or his successors, without cost to the project. The permit shall further provide that if any such structure be not regularly used for a period of one year or more the project engineer may notify the person responsible for its maintenance to remove it within a period of 90 days; and that if the structure is not removed within the time allowed, it may thereafter be removed by the project engineer, the cost of such removal to be paid by the party responsible for the maintenance of the structure.

(b) Where a new irrigation project is installed, or an existing project is extended to an area without existing roads, and the construction of roads, bridges or culverts becomes necessary, the project engineer shall investigate the possibility of liquidating all or part of the cost of such construction by securing funds from any governmental agency providing funds for such purposes, and he is authorized to negotiate, subject to the approval of the Commissioner of Indian Affairs, any necessary agreement with such governmental agency.

(c) All persons or corporations are warned against the violation of this section.

§ 199.14 Head or service ditches.

The head or service ditches are those ditches to which delivery of water is made by the ditchrider or watermaster from canals or laterals operated and maintained by the project. Such ditches which have been or may be placed upon the project right-of-way are considered an encroachment, and are subject to regulation contained in § 199.15. The watermaster and ditchriders are authorized to refuse delivery of water to ditches that are not in proper condition to receive and convey it to the place of use with a minimum loss.

§ 199.15 Right-of-way.

For use in the necessary activities and emergencies incident to the operation and maintenance of the irrigation system, there is reserved for a right-of-way along all canals, laterals, sublaterals and drains, in addition to the land actually occupied by such channels and their embankments, measured from the outside limits of the embankments or channel, a strip of land of sufficient width on each side of said canals, laterals, sublaterals and drains to permit the operation of maintenance equipment, making repairs and improvements, and travel by the project ditchriders.

§ 199.16 Obstructions and their removal.

No trees, buildings, hay or straw stacks, or other obstructions are to be placed upon said reserved right-of-way by any adjacent landowners or others. Any trees, buildings, hay or straw stacks, or other obstructions of any kind whatsoever, located upon said right-of-way may be ordered removed by the project engineer, and if not removed by the person or persons placing them thereon they shall be removed under the supervision of the project engineer at his discretion, and the cost of such removal shall be added to the cost of operation and maintenance for the particular tract of land under the project belonging to the persons so placing or causing such obstructions to be placed thereon.

§ 199.17 Fencing.

No fences shall be placed within the right-of-way excepting those crossing a canal or lateral, and in such cases a gate of approved type shall be installed and maintained by the property owner, on each side of the canal or lateral, of sufficient width to permit the operation of maintenance equipment and travel on the banks of the canal or lateral by the ditchrider. The gate must be provided with some approved convenient type of fastening which will permit the ditchrider to open and close it with a minimum loss of time. Any wire or timbers used in fencing across a canal or lateral shall not be lower than 12 inches above the maximum high water surface.

§ 199.18 Assessments.

Bills for the yearly assessment of construction and operation and maintenance charges will be issued each year to the record owner or lessee of the land within the project. The annual per-acre charge for operation and maintenance shall be levied against the entire irrigable area of each farm unit or allotment to which irrigation water can be delivered from present constructed works. Charges shall become due and payable in accordance with the order fixing operation and maintenance charges issued annually by the Secretary of the Interior. The provision of the order regarding refusal of delivery of water in case of delinquency shall be enforced. An additional operation and maintenance charge may be made if water is delivered by the project to tracts of less than 40 acres in area. The amount of this additional charge, if any, will be stated in the order fixing operation and maintenance charges.

CROSS REFERENCES: For regulations pertaining to construction costs, see Part 211 of this chapter. For orders fixing operation and maintenance charges, see §§ 221.77–221.81 of this chapter.

§ 199.19 Place of payment of assessments.

The assessments against all lands are to be paid at the Uintah and Ouray Agency Office, Fort Duchesne, Utah.

§ 199.20 Interference with project operation.

No persons other than those specifically designated by the project engineer are authorized to regulate project structures or to interfere in any way with project-operated canals or any works appurtenant thereto or to the water flowing therein.

§ 199.21 Crop and statistical report.

A crop and statistical report on forms furnished for that purpose will be taken each year by the ditchrider or some person authorized to do so. This report will show the number of acres devoted to each crop, total yield and value of crops for each unit of the project and for the entire project.

§ 199.22 Complaints.

All complaints must be made in writing to the superintendent. In case of dispute regarding application of rules and regulations and decisions of the superintendent made pursuant thereto, appeal may be made to the Area Director, Phoenix, Arizona who will settle the dispute or refer it to the Commissioner of Indian Affairs whose decision will be final.

§ 199.23 Carriage agreements.

The superintendent is vested with authority to enter into permanent carriage agreements with non-project water users to convey non-project water through project facilities for delivery to non-project lands. The superintendent is also vested with authority to enter into permanent carriage agreements with private irrigation and ditch companies for the conveyance of water through non-project facilities for delivery to isolated tracts of Indian land that cannot be served from project facilities.

D. OTIS BEASLEY,
Assistant Secretary of the Interior.

JULY 25, 1963.

[F.R. Doc. 63-8010; Filed, July 30, 1963; [8:46 a.m.]

[25 CFR Part 221]

OPERATION AND MAINTENANCE CHARGES; UINTAH INDIAN IRRIGATION PROJECT, UTAH

Notice of Proposed Rule Making

Basis and purpose. Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by the Revised Statutes, sections 161, 463 and 465 (5 U.S.C. 22, 25 U.S.C. 2 and 9), and the acts of August 1, 1914 (38 Stat. 583), and March 7, 1928 (45 Stat. 210), it is proposed to amend §§ 221.77, 221.77b, 221.78, 221.79, 221.80 and 221.81 of Part 221 of Title 25 of the Code of Federal Regulations, which relate to operation and maintenance of the Uintah Indian Irrigation Project, Utah, as set forth below. The purpose of the amendment is to delete reference to § 221.77b, which is no longer applicable and is proposed to be revoked.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rule making process. Accordingly, interested persons may submit written comments, suggestions or objections with respect to the proposed revisions to the Bureau of Indian Affairs, Washington 25, D.C., within thirty days of the date of publication of this notice in the FEDERAL REGISTER.

1. Sections 221.77, 221.78, 221.79, 221.80 and 221.81 of Part 221, which are grouped under the center head Uintah Indian Irrigation Project, Utah, are amended to read as follows:

Sec.
221.77 Basic water charges
221.78 Payment
221.79 Delivery to fee owners
221.80 Delivery to Indian owners
221.81 Delivery to lessees

AUTHORITY: §§ 221.1 to 221.142 issued under secs. 1, 3, 36 Stat. 270, 272, as amended; 25 U.S.C. 385.

§ 221.77 Basic water charges.

Pursuant to the provisions of the Acts of June 21, 1906 (34 Stat. 375), and March 7, 1928 (45 Stat. 210, 25 U.S.C. 387), the reimbursable costs expended in the operation and maintenance of the Uintah Indian Irrigation Project, Utah, are apportioned on a per-acre basis against the irrigable lands of all units of the project, and for the calendar year 1960 and each succeeding year until further order, there shall be collected for each acre of irrigable land to which water can be delivered from the constructed works, a uniform basic charge of $3.00 per acre per annum, where not otherwise established by contract. No bill shall be rendered for less than $4.00.

CROSS REFERENCE: For method of assessment of operation and maintenance charges, see § 199.18 of this chapter.

§ 221.78 Payment.

(a) The assessments fixed in § 221.77 of this part shall become due on April 1 of each year, and are payable on or before that date.

(b) No delivery of water shall be made to land until the assessment has been paid in full. Assessments remaining unpaid on October 1, following the due date, shall be subject to a penalty of one-half of 1 percent per month, or fraction thereof, from the due date until paid.

(c) No water shall be delivered to land under lease to non-Indians until the superintendent of the reservation certifies to the project engineer that the lessee has fully complied with the lease contract relative to the payment of the operation and maintenance assessment.

(d) Indian water users who are financially unable to pay the assessment on the due date may be furnished water provided the superintendent of the reservation certifies to the project engineer that such Indian is not financially able to pay his assessment. Under such condition the assessment shall be entered on the accounts as a lien against the land, without penalty.

§ 221.79 Delivery to fee owners.

No water shall be delivered to patent in fee landowners, until at least 50 percent of charges assessed in § 221.77 of this Part 221 is paid, and water delivery shall not be continued after July 1 unless the total charges shall have been paid.

§ 221.80 Delivery to Indian farmers.

No water will be delivered to Indians farming their own land, until the superintendent of the reservation shall have issued a certificate to the project engineer certifying that the Indian has paid or will pay such charges through the superintendent or that such Indian is financially unable to pay the charges.

§ 221.81 Delivery to lessees.

No water will be delivered to a lessee of Indian trust patent land, until the superintendent of the reservation shall have furnished the project engineer with a certificate stating that the lessee has fully complied with the terms of the lease relative to the payment of the annual operation and maintenance charges.

2. Section 221.77b, reading as follows, is revoked:

§ 221.77b Charges for additional delivery points.

The charges provided in this part are on the basis of one delivery point for each tract of land in contiguous ownership. For each additional delivery point on any tract of land in contiguous ownership, now existing thereon or which may be installed in the future, a service charge of 10 cents per acre shall be assessed annually against each acre of such tract.

D. OTIS BEASLEY,
Assistant Secretary of the Interior.

JULY 25, 1963.

[F.R. Doc. 63-8011; Filed, July 30, 1963; 8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 945]

IRISH POTATOES GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO AND MALHEUR COUNTY, OREGON

Notice of Proposed Expenses and Rate of Assessment

Consideration is being given to the approval of proposed expenses and a proposed rate of assessment as hereinafter set forth, which were recommended by the Idaho-Eastern Oregon Potato Committee, established pursuant to Marketing Agreement No. 98, as amended, and Order No. 945, as amended (7 CFR Part 945), herein referred to collectively as the "order".

The marketing order regulates the handling of Irish potatoes grown in certain designated counties in Idaho and Malheur County, Oregon, and is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

Consideration will be given to any written data, views, or arguments pertaining thereto, which are filed with the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, not later than 10 days following publication of this notice in the FEDERAL REGISTER.

§ 945.216 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period beginning June 1, 1963, and ending May 31, 1964, by the Idaho-Eastern Oregon Potato Committee, for its maintenance and functioning, and for such purposes as the Secretary determines to be appropriate, will amount to $30,000.00.

(b) The rate of assessment to be paid by each handler in accordance with the amended marketing agreement and this part, shall be seventy cents per carload or fraction thereof, or per truckload of 5,000 pounds or more, of potatoes handled by him as the first handler thereof during said fiscal period.

(c) Terms used in this section have the same meaning as when used in the said amended marketing agreement and this part.

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

Dated: July 25, 1963.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 63–8015; Filed, July 30, 1963; 8:47 a.m.]

[7 CFR Part 987]

HANDLING OF DOMESTIC DATES PRODUCED OR PACKED IN DESIGNATED AREA OF CALIFORNIA

Identification and Disposition of Restricted Dates; Notice of Proposed Rule Making

Notice is hereby given of a proposal recommended by the Date Adminstrative Committee to amend the administrative rules and regulations (Subpart—Administrative Rules and Regulations) by revising: (1) The marking requirements, prescribed in paragraph (c)(1)(iv) of § 987.145, with respect to containers of restricted dates to be exported; and (2) paragraph (a)(1) of § 987.155 to approve all foreign countries, except Canada, as export outlets for restricted dates, and provide that free dates certified for handling may be reclassified as restricted dates if they are exported to approved countries. The subpart is operative pursuant to the marketing agreement, as amended, and Order No. 987, as amended (7 CFR Part 987), regulating the handling of domestic dates produced or packed in a designated area of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

Consideration will be given to any written data, views, or arguments pertaining to the proposal which are received by the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, not later than the tenth day after the date of publication of this notice in the FEDERAL REGISTER.

The proposal follows:

1. Revise paragraph (c)(1)(iv) of § 987.145 to read as follows:

(iv) Each handler shall mark all shipping containers (not including subcontainers) of dates to be exported to Mexico pursuant to § 987.55 with the appropriate lot number and the words "Export Mexico". Such markings shall be legible and the words "Export Mexico", shall be not less than three-fourths (¾) inch in height on shipping containers exceeding five pounds net weight and not less than one-eighth (⅛) inch in height on all shipping containers of five pounds net weight or less. Prior to such marking, the handler shall remove, delete, or obliterate from each such container any former identifying marks other than those herein authorized. Upon the dates to be exported to Mexico being inspected and certified as meeting the applicable grade and size requirements prescribed in, or pursuant to, §§ 987.39 and 987.40, the shipping containers shall be marked or otherwise identified by, or under the supervision of, the inspection service with the date of inspection, the insignia or name of the inspection service, and the word "Export". The shipping containers of dates exported pursuant to § 987.55 to approved countries other than Mexico shall be identified as prescribed in § 987.145(b)(1) for packed dates to be handled.

(2) Redesignate subparagraph (2) of § 987.155(a) as (3) and revise subparagraph (1) to read as follows:

(1) Pursuant to § 987.55, all countries other than Canada are approved as countries to which restricted dates may be exported. Restricted dates exported to approved countries other than Mexico shall (i) be inspected and certified prior to export as meeting all of the applicable grade and size requirements in or pursuant to §§ 987.39 and 987.40 for dates to be handled as free dates, (ii) be packed prior to export in individuai cartons, not including bags, each having a net weight content of eight, ten, or twelve ounces or in bulk containers having a net weight content of ten pounds or more, and (iii) move directly from the handler to the country of destination, and (iv) the shipping containers thereof shall be identified as prescribed in § 987.145(b)(1).

(2) Any handler exporting to an approved country free dates certified for handling (pursuant to § 987.41(a)) and which were not previously handled may, by complying with the requirements of this paragraph applicable to restricted dates that are exported, have the Committee reclassify such dates as restricted dates. The handler shall submit to the Committee a certificate of quality and condition (FV–146) issued by the inspection service, and the report of disposition and documentary evidence of export required in § 987.164, covering the exported dates. Upon such compliance by the handler, the Committee shall credit the handler's restricted obligation to the extent of the free dates so exported and make any adjustments necessary in the handler's withholding and assessment obligations imposed pursuant to § 987.45(c) when the free dates were certified for handling. The provisions of this subparagraph or of subparagraph (1) of this paragraph shall not be construed as prohibiting the dates packed in the prescribed cartons or containers from being placed in larger shipping containers.

Dated: July 26, 1963.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 63–8058; Filed, July 30, 1963; 9:02 a.m.]

[7 CFR Part 993]

HANDLING OF DRIED PRUNES PRODUCED IN CALIFORNIA

Proposed Expenses of Prune Administrative Committee for 1963–64 Crop Year and Rate of Assessment for That Crop Year

Notice is hereby given of a proposal regarding expenses of the Prune Administrative Committee for the 1963–64 crop year and rate of assessment for that crop year, pursuant to §§ 993.80 and 993.81 of the marketing agreement, as amended, and Order No. 993, as amended (7 CFR Part 993), regulating the handling of dried prunes produced in California. The amended marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The Prune Administrative Committee has unanimously recommended for the crop year beginning August 1, 1963, a budget of expenses in the total amount of $67,500 and an assessment rate of 50 cents per ton of assessable prunes. Expenses in that amount and the assessment rate are specified in the proposal hereinafter set forth. The assessable tonnage is estimated by the Committee at 135,000 tons.

Consideration will be given to any written data, views, or arguments pertaining to the proposal which are received by the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D.C., not later than the tenth day after the date of publication of this notice in the FEDERAL REGISTER.

The proposal is as follows:

§ 993.314 Expenses of the Prune Administrative Committee and rate of assessment for the 1963–64 crop year.

(a) *Expenses.* Expenses in the amount of $67,500 are reasonable and likely to be incurred by the Prune Administrative Committee during the crop year beginning August 1, 1963, for its maintenance and functioning and for such other purposes as the Secretary

may, pursuant to the applicable provisions of the marketing agreement, as amended, and this part, determine to be appropriate.

(b) *Rate of assessment.* The rate of assessment for such crop year which each handler is required, pursuant to § 993.81, to pay to the Prune Administrative Committee as his pro rata share of the said expenses is fixed at 50 cents per ton of prunes received by him from producers and dehydrators.

Dated: July 25, 1963.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 63-8014; Filed, July 30, 1963; 8:47 a.m.]

DEPARTMENT OF COMMERCE

Patent Office

[37 CFR Part 1]

RULES OF PRACTICE IN PATENT CASES

Furnishing by Applicant of Information as to Assistance Received in Preparation and/or Prosecution of Application, When no Attorney or Agent is of Record

Notice is hereby given that the United States Patent Office proposes to amend one of its rules relating to patents. The amendments are proposed pursuant to the authority contained in Title 35 U.S.C. section 6.

All persons who desire to submit written data, views, arguments or suggestions for consideration in connection with the proposed amendment, are invited to forward the same to the Commissioner of Patents, Washington 25, D.C. on or before October 15, 1963. An oral hearing will not be scheduled.

The purpose of the amendment to § 1.33 (Rule 33) is to aid the Commissioner in performing the duty, inherent in the authority granted by 35 U.S.C. 31, of ensuring that applicants have proper assistance in the preparation and prosecution of their applications. Experience has shown that applicants often seek assistance from persons who are not registered to practice before the Patent Office, without knowing that such person cannot sign amendments or other papers to be presented to the Office during the prosecution of the application. Frequently abandonment of the application has resulted because of the time lag involved in having papers prepared by such persons for the applicant's signature, both because the applicant does not always understand the absolute necessity for prompt action, and because he may be unavailable at that time. Hence, it seems desirable for the protection of those applicants who may have been induced to employ non-registered persons to require disclosure of that information, so that they may be advised of the risks involved and of the possible loss of valuable rights

The text of the proposed amendment is as follows:

Section 1.33 of Title 37 CFR (Patent Rule 33) is amended by designating the present paragraph as paragraph (a) and by adding thereto the following new paragraph (b):

§ 1.33 Correspondence when no attorney or agent.

* * * * *

(b) An applicant who is not represented by a registered attorney or agent may be required to state whether he received assistance in the preparation or prosecution of his application, for which any compensation or consideration was given, and if so, to disclose the name or names of the person or persons providing assistance.

DAVID L. LADD,
Commissioner of Patents.

Approved: July 25, 1963.

J. H. HOLLOMON,
Assistant Secretary of Commerce for Science and Technology.

[F.R. Doc. 63-8041; Filed, July 30, 1963; 8:58 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Part 77]

[Reg. Docket No. 1882; Notice 63-29]

OBJECTS AFFECTING NAVIGABLE AIRSPACE

Notice of Proposed Rule Making

The Federal Aviation Agency has under consideration a proposal to revise substantially Part 77 [New] of the Federal Aviation Regulations which currently imposes requirements for notice to the Agency of certain proposed structures, contains procedures for determining the effect of such structures on air navigation, and provides for the establishment of antenna farm areas to group tall structures. This revision would relax and simplify the notice requirements, provide obstruction standards which would be uniform for all of the Agency programs, and make minor revisions of the Agency procedures to ease the administrative workload and expedite the processing of cases.

Interested persons may participate in the making of the proposed amendment by submitting such written information, views, or arguments as they may desire. Communications should be sent in triplicate to the Office of the General Counsel: Attention Rules Docket, Room A-103, 1711 New York Avenue NW., Washington 25, D.C. All communications received on or before October 28, 1963, will be considered by the Administrator before taking action on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available in the Docket Section for examination by interested persons at any time.

The first major revision of Part 77 is presented in subpart B and would substantially relax and simplify the existing requirements for sponsors of construction or alteration to notify the Agency of their proposed structures. A notice would be required in five types of cases, (1) construction of more than 200 feet in height, (2) construction extending above a slope of 1 foot in height to 100 feet of horizontal distance from the property line of an FAA-listed airport, (3) any highway or other route for mobile objects which, with the mobile object, would exceed either of the preceding standards, (4) construction on an FAA-listed airport, (5) construction in an instrument approach area when a notice is requested by the Agency. While this list specifies five classes of cases, the impact on the persons sponsoring construction would be substantially less than the current requirements. In essence, a construction proponent could determine whether a construction notice would be required by the application of the two basic criteria, 200 feet of height or the 1 to 100 slope. The construction sponsor of a highway or similar route would merely adjust the height of his construction by the height of the intended vehicles before applying the basic criteria. In the remaining cases, no difficulty is envisioned in the submission of a notice for construction on an airport itself or when specifically requested by the Agency.

The notice requirements with respect to airports would apply for only those airports listed in the Agency "Directory of Airports and Seaplane Bases." These airports would include seaplane bases, but only those with definitely defined areas. The provision for Directory Listing should benefit construction proponents by providing a definite guide on the existence and locations of airports in the vicinity of a construction site. It should also benefit aviation in encouraging the reporting of airports to the Agency so that a more complete listing may be made available to the aeronautical interests.

The use of the 1 to 100 slope as a notice requirement may result in the Agency not receiving notification from a construction proponent of some structures which would be less than 200 feet high but would neverthless be classified as an obstruction to air navigation under Subpart C. These structures would generally be in an instrument approach area between the final approach fix and the runway. The Agency proposal to impose a notice requirement which may thus not cover all possible obstructions to air navigation is based on the need to provide reasonable notice criteria which can be applied and complied with by the average construction proponent. A notice requirement geared fully to the obstruction criteria of Subpart C appears impracticable of application. If the 1 to 100 slope is adopted, the Agency would supplement the information received from notices by requiring increased vigilance by Agency flight inspection personnel and other employees for indications of such prospective obstructions in the approach areas as may not be covered by the notice requirements. Also, the aviation public would be encouraged to alert Agency employees to such prospective obstructions. It is expected these

measures, applied in conjunction with the requirement for a notice upon Agency request, would be adequate for air safety purposes.

In addition to providing information on possible hazards to air navigation, the notices furnished under Subpart B would be reviewed to determine the need for charting, marking or lighting of the obstruction. The current FAA manual on "Obstruction Marking and Lighting" would be revised to adjust the marking and lighting standards to the obstruction criteria which would be adopted under Subpart C. The current provision for a second notice in the course of the construction would become a regulatory requirement for the submission of supplementary notices. One such notice would be required upon the completion of any structure that was more than two hundred feet high or was of such height and location that, upon review of the first notice, the Agency determined air safety required information on its completion. A supplementary notice would also be required 48 hours prior to construction in those cases where the Agency found it necessary.

Perhaps the most important single feature of this proposal is that it would revise and consolidate the obstruction criteria to present a single Agency standard for identifying obstructions. Part 77 was originally adopted as Part 626 of the regulations of the Administrator, effective July 15, 1961. The preamble to that part explained that the Agency was inaugurating a detailed review of obstruction criteria with the objective of effecting further refinement in those criteria. That review has now been completed and the results analyzed in the light of the experience gained in operations under Part 626 and Part 77.

The proposed obstruction criteria are based principally on the standards contained in Technical Standard Order TSO–N18, entitled "Criteria for Determining Obstructions to Air Navigation." This Amendment would supersede TSO–N18, which has been employed in the performance of many Agency functions. However, these activities would not be substantially affected by the substitution of the new criteria.

The standards contained in the airport imaginary surfaces of the proposed subpart C have their origin in section A of TSO–N18, except the outer horizontal surface referred to in § 77.25(a)(3). These standards are specified in §§ 77.25, 77.27, and 77.29. With the noted exception, they would be employed in the performance of the statutory functions relating to the formation of long-range plans and policies for the orderly development and location of landing areas; the furnishing of technical advice and assistance to airport operators regarding land use programs and zoning; the reporting of obstruction data on Facility Record Forms; the determination of property interests eligible for Federal grants under the Federal Airport Act or necessary for transfer as surplus property or eligible for transfer under Section 16 of the Federal Airport Act; the design and development of airports under the Federal-aid Airport Program or otherwise; and in the administration, promotion, encouragement and development of civil aeronautics.

Current Grant Agreements executed under the Federal Airport Act contain obligations by each Project Sponsor regarding obstructions in the approach areas of the airport. These obstructions are now determined by reference to section A of TSO–N18. Future Grant Agreements in the Federal-aid Airport Program would employ as obstruction criteria the sections of this Part which were developed from that section A. Appropriate revisions of the references in the Agency FAAP Regulations to the Technical Standard Order would be made at a later date and the contractual provisions of subsequent Grant Agreements would be modified accordingly.

Section B of TSO–N18 contains the limiting heights which, combined with certain criteria of Part 77, form the basis for the criteria presented in § 77.23(a), exclusive generally of paragraph (a)(2). These limiting heights identify obstructions which could affect minimum instrument approach and circling altitudes in the vicinity of airports, minimum en route altitudes under the Instrument Flight Rules and en route and terminal operations under the Visual Flight Rules. The substance of these criteria is utilized by the Agency in the establishment of instrument approach procedures and minimum en route altitudes and the imposition of aircraft operating limitations. The FAA will continue to perform these functions in accordance with the separation criteria contained in the specific regulations governing the activities. Since the criteria would conform, the resultant Agency actions would be compatible with the obstruction criteria proposed here.

The Agency would continue to study proposed obstructions to determine their effect on air navigation but the resultant decision would be issued on the question of "adverse effect on air navigation," rather than "hazard to air navigation," as more appropriate terminology. Aeronautical studies conducted by the Agency to determine whether a proposed structure would have an adverse effect on air navigation would be based upon a review of the construction proposal in the light of actual and proposed aeronautical operations, procedures and minimum flight altitudes. An obstruction, as identified by application of the standards in Subpart C, would not necessarily be determined to have an adverse effect on air navigation unless it were also located in a runway clear zone. Except for such an obstruction which would automatically be determined to have an adverse effect on air navigation, the question of whether an obstruction to air navigation would actually have an adverse effect would be determined largely by the effect of that structure on instrument approach procedures and minimum en route IFR altitudes and on the actual IFR and VFR operations in the vicinity of the construction or alteration site. However, the presumption of adverse effect would exist with respect to certain construction proposals.

The new criteria would differ in several respects from those contained in TSO–N18 and the present Part 77. The amendment would provide specific criteria to protect VFR airports with a potential for IFR operations. This added protection should assist in the prevention of local developments which might otherwise stifle the normal growth of an airport currently being employed for only VFR operations. The listings in the Agency Directory of Airports and Seaplane Bases would distinguish these airports from those without an IFR potential. In addition, the obstruction standards would be applied by the Agency to all airports, including those not listed in the Directory.

The consolidated criteria would extend by 500 feet the en route criteria of Part 77 applicable to the established minimum en route altitudes of low altitude and intermediate altitude Federal airways and approved off-airway routes. This limiting height protection is currently fixed at 951 feet below the MEA. The proposed extension to 1,451 feet below the MEA would recognize the purpose of CAR Amendments 60–21 and 60–29 to provide additional uncontrolled airspace for VFR operations and would preclude the unrestricted erection of structures in these airways and routes which might nullify the effect of the airspace actions implementing the cited Amendments.

Several other criteria revisions are proposed in this amendment, generally to provide added protection of air navigation. Interested persons should compare the criteria in their areas of concern with the current provisions of Part 77 and TSO–N18. A leading example of these revisions is the increase of the radius of the heliport primary surface from 200 to 500 feet in recognition of the operating characteristics of helicopters which include acceleration after take-off to climb out speed prior to climbing to en route altitude.

One relaxation in the form of the obstruction criteria would involve VFR flyways. This would not currently affect the substance of Part 77 since, although Part 77 contains hazard criteria protecting VFR flyways, no such routes have been established within the scope of Part 77. To qualify under Part 77, such a route must be depicted on an aeronautical chart and must be an established route used for VFR operations. The Agency studied the establishment of a program to provide for these routes but the study revealed a lack of interest and, moreover, opposition on the part of some of the aviation community to such a program. This opposition was based on the possibility of creating congestion and a possible hazardous situation in the channeling of VFR traffic. While this Agency study is being continued, its present status indicates that protection of VFR flyways as presently provided is not justified. Of course, the use of a particular route by VFR traffic will continue to be a factor for consideration in aeronautical studies, even though that route may not be designed specifically as a VFR flyway.

The procedures contained in Subpart D for the conduct of aeronautical studies of the effect of proposed construction on the use of the navigable airspace would be revised to shorten the time re-

quired to process a study to determine whether the proposed construction would be an adverse effect on air navigation. Each Regional Assistant Administrator would be authorized to issue a determination on the issue of adverse effect on air navigation. This determination could be issued at any point in the regional aeronautical study when sufficient facts had been obtained to support the determination, whether that point was reached upon an initial analysis of the proposed structure, receipt of the information provided by informal circularization of the aeronautical interests, revision in the aviation requirements to accommodate the construction proposal, adjustment of the proposal to eliminate violation of the obstruction criteria, or at the conclusion of all fact-collection procedures in the region. The determination would then be subject to a review by the Agency at the Washington level if any interested party required it. This review would be conducted either on the basis of the information forwarded in writing by the region and the interested parties upon being advised of the review, or on the basis of a public hearing.

Only minor editorial revisions are proposed for Subpart E, which prescribes the procedures governing Agency hearings to determine the effect of proposed structures on the safety of aircraft and the efficient use of the navigable airspace. One such revision would also be made to Subpart F on the establishment of antenna farm areas. Section 77.73 would include a specific statement on the fact that establishment of an antenna farm area is accomplished by the Agency in accordance with the procedural requirements of section 4 of the Administrative Procedure Act. While the establishment of an antenna farm area is an airspace rule-making action which must, necessarily, comply with section 4 of the Act, an express reference to that section should avoid any misunderstanding on that point.

In consideration of the foregoing, it is proposed to revise Part 77 of the Federal Aviation Regulations to read as hereinafter set forth.

This amendment is proposed under the authority of sections 104, 307, 313, 1001, and 1101 of the Federal Aviation Act of 1958 (72 Stat. 740, 749, 752, 788, and 797; 49 U.S.C. 1304, 1348, 1354, 1481, 1501).

Issued in Washington, D.C., on July 25, 1963.

N. E. HALABY,
Administrator.

PART 77—OBJECTS AFFECTING NAVIGABLE AIRSPACE

Subpart A—General

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77.3 Standards.
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77.61 Revision of construction or alteration proposal.
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Subpart F—Establishment of Antenna Farm Areas

77.71 Scope.
77.73 General provisions.
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Subpart A—General

§ 77.1 Scope.

This part:

(a) Establishes standards for determining obstructions in navigable airspace;

(b) Sets forth the requirements for notice to the Administrator of certain proposed construction or alteration;

(c) Provides for aeronautical studies of obstructions to air navigation, to determine their effect on the safe and efficient use of airspace;

(d) Provides for public hearings on the hazardous effect of proposed construction or alteration on air navigation; and

(e) Provides for establishing antenna farm areas.

§ 77.3 Standards.

(a) The standards established in this part for determining obstructions to air navigation are used by the Administrator in:

(1) Administering the Federal-aid Airport Program and the Surplus Airport Program;

(2) Transferring property of the United States under section 16 of the Federal Airport Act;

(3) Providing technical advice and assistance in the design and development of airports; and

(4) Imposing requirements for public notice of the construction or alteration of any structure where notice will promote air safety.

(b) The standards established in this part for determining obstructions to air navigation are compatible with those employed by the Administrator in establishing flight procedures and aircraft operational limitations. However, the actual establishment of those procedures and limitations is governed by other regulations of the Administrator.

§ 77.5 Kinds of objects affected.

(a) This part applies to:

(1) Any object of natural growth, terrain, or permanent or temporary construction or alteration, including equipment or materials used therein, and apparatus of a permanent or temporary character.

(2) Alteration of any permanent or temporary existing structure by a change in its height (including appurtenances), or lateral dimensions, including equipment or materials used therein.

(b) Subparts B, D, and E of this part do not apply to any construction or alteration begun before July 15, 1961.

Subpart B—Notice of Construction or Alteration

§ 77.11 Scope.

(a) This subpart requires each person proposing any kind of construction or alteration described in § 77.13(a) to give adequate notice to the Administrator. It specifies the locations and dimensions of the construction or alteration for which notice is required and prescribes the form and manner of the notice. It also requires supplemental notices 48 hours before the start and upon the completion of certain construction or alteration that was the subject of a notice under § 77.13(a).

(b) Notices received under this subpart provide a basis for:

(1) Evaluating the effect of the construction or alteration on operational procedures;

(2) Preliminary determinations of the possible hazardous effect of the proposed construction or alteration on air navigation;

(3) Recommendations for identifying the construction or alteration in accordance with the current FAA Manual entitled "Obstruction Marking and Lighting," which is available at any FAA Office and is on sale at the U.S. Government Printing Office, Washington 25, D.C.;

(4) Determining other appropriate measures to be applied for continued safety of air navigation; and

(5) Charting and other notification to airmen of the construction or alteration.

§ 77.13 Construction or alteration requiring notice.

(a) Except as provided in § 77.15, each person who proposes any of the following construction or alteration shall

notify the Administrator in the form and manner prescribed in § 77.17:

(1) Any construction or alteration that would be more than 200 feet above the surface level of its site.

(2) Any construction or alteration of greater height than an imaginary surface extending from the property line of each airport listed in the FAA "Directory of Airports and Seaplane Bases," upward and outward at a slope of 1 to 100.

(3) Any highway, railroad, or other traverse way for mobile objects, of a height which if adjusted upward 17 feet for a highway, 25 feet for a railroad, and, for any other traverse way, an amount equal to the height of the highest unshielded mobile objects that would normally traverse it, would exceed a standard of subparagraph (1) or (2) of this paragraph.

(4) Any construction or alteration on an airport listed in the FAA "Directory of Airports and Seaplane Bases."

(5) When requested by the FAA, any construction or alteration that would be in an instrument approach area (defined in the FAA regulations governing instrument approach procedures) and available information indicates it might exceed a standard of Subpart C of this part.

(b) Each person who proposes construction or alteration that is the subject of a notice under § 77.13(a) shall submit a supplemental notice on a prescribed form 48 hours before the start of construction or alteration, to the FAA regional office that advises him the supplemental notice is required.

(c) Each person who completes construction or alteration that is the subject of a notice under § 77.13(a) shall, within five days after that completion, submit a supplemental notice on a prescribed form to the National Flight Data Center, AT–435, Washington 25, D.C., if:

(1) The construction or alteration is more than 200 feet above the surface level of its site; or

(2) An FAA Regional Office advises him that submission of the form is required.

§ 77.15 Construction or alteration not requiring notice.

No person is required to notify the Administrator for any of the following construction or alteration:

(a) Any object that would be shielded by existing structures of a permanent and substantial character or by natural terrain or topographic features of equal or greater height, and would be located in the congested area of a city, town, or settlement where it is evident beyond all reasonable doubt that the structure so shielded will not adversely affect safety in air navigation.

(b) Any antenna structure of 20 feet or less in height that would not be located on another antenna structure or on an airport listed in the FAA "Directory of Airports and Seaplane Bases."

(c) Any electronic facility the broadcast signal of which is used primarily for navigational guidance by aircraft, any airport visual approach or landing aid, or any airport ceiling or visibility indicator device, or other meteorological facility or instrument, the location and height of which would be fixed by its functional purpose.

(d) Any construction or alteration for which notice is required by any other FAA regulation.

§ 77.17 Form and time of notice.

(a) Each person who is required to notify the Administrator under § 77.13 (a) shall send three executed copies of Form FAA–117, "Notice of Proposed Construction or Alteration," to the Chief, Air Traffic Division, of the FAA Region having jurisdiction over the area within which the construction or alteration will be located. The Federal Aviation Agency, Washington 25, D.C. and the regional offices provide copies of Form FAA–117. The regional geographic areas of jurisdiction are:

1. Eastern Region, Jamaica, Long Island, New York; Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, Delaware, New Jersey, Pennsylvania, Ohio, Maryland, Virginia, West Virginia, Kentucky, and the District of Columbia.

2. Southern Region, Atlanta, Georgia; Tennessee, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Puerto Rico, Canal Zone, Swan Island, and the Virgin Islands.

3. Southwest Region, Fort Worth, Texas; Arkansas, Louisiana, Texas, Oklahoma, and New Mexico.

4. Central Region, Kansas City, Missouri; Michigan, Indiana, Wisconsin, Illinois, Minnesota, Iowa, Missouri, North Dakota, South Dakota, Nebraska, Montana, and Kansas.

5. Western Region, Los Angeles, California; Wyoming, Colorado, Arizona, Utah, Idaho, Washington, Oregon, Nevada, and California.

6. Alaskan Region, Anchorage, Alaska; Alaska.

7. Pacific Region, Honolulu, Hawaii; areas contained within the Honolulu, Wake and Guam Flight Information Regions and American Samoa.

(b) The notice required under § 77.13 (a) (1) thru (4) must be submitted at least 30 days before the earlier of the following dates:

(1) The date the proposed construction or alteration is to begin.

(2) The date an application for a construction permit is to be filed. However, a notice relating to proposed construction or alteration that is subject to the licensing requirements of the Federal Communications Act may be sent to the FAA at the same time the application for construction is filed with the Federal Communications Commission, or at any time prior thereto.

(c) In the case of an emergency involving essential public services, public health, or public safety, that requires immediate construction or alteration, the 30-day requirement in paragraph (b) of this section does not apply and the notice may be sent by telephone, telegraph, or other expeditious means, with an executed Form FAA–117 submitted within 5 days thereafter. Outside normal business hours, emergency notices by telephone or telegraph may be submitted to the nearest FAA Flight Service Station.

(d) The notice required under § 77.13 (a) (5) must be submitted within 10 days after the date of the FAA request for that notice.

§ 77.19 Acknowledgment of notice.

(a) The FAA acknowledges receipt of each notice submitted under § 77.13(a).

(b) If the construction or alteration proposed in a notice does not exceed any standard of Subpart C of this part, the acknowledgment contains a statement to that effect and a recommendation as to whether the structure should be marked and lighted in accordance with the FAA Manual.

(c) If the construction or alteration proposed in a notice exceeds any standard in Subpart C of this part, the acknowledgment advises the sponsor that the construction or alteration would exceed a specified standard in Subpart C and a determination has been made that the construction or alteration:

(1) Would be such an obstruction to air navigation that further aeronautical study is necessary to determine whether it would have an adverse effect on air navigation and, pending completion of that further study, it is presumed the construction or alteration would have an adverse effect on air navigation;

(2) Would be located within a runway clear zone and would, therefore, have an adverse effect on air navigation;

(3) Would not have an adverse effect on air navigation, provided that it would be marked and lighted in accordance with the FAA Manual;or

(4) Would constitute an obstruction under those standards but would not, because of the peculiar circumstances of the case, have an adverse effect on air navigation and marking and lighting would or would not be necessary.

For the purposes of this subpart, a runway clear zone is an area on the surface that begins at the end of each primary surface defined in § 77.27(a)(1) and (b)(1) and extends with the width of each approach-departure surface defined in § 77.27 (a) (2) and (3) and (b)(2) to terminate directly below each approach-departure surface slope at the point or points where the slope reaches a height of 50 feet above the terrain or 50 feet above the elevation of the end of the landing strip, whichever distance is shorter.

(d) The acknowledgment also advises of any possible modification of the construction or alteration that would eliminate the conflict with the standards in Subpart C of this part.

(e) Each determination made under this subpart, that a proposed obstruction would not have an adverse effect on air navigation, expires 18 months after its effective date, unless the construction or alteration has begun, or upon the date the proposed construction or alteration is abandoned, whichever date is earlier.

Subpart C—Obstruction standards

§ 77.21 Scope.

(a) This subpart establishes standards for determining obstructions to air navigation. It applies to existing and proposed man-made objects, objects of natural growth, and terrain. The standards apply with respect to existing air navigation facilities and uses of the navigable airspace by aircraft and, if a plan or proposal for a new facility or use is on

file with the FAA on the date the notice required by § 77.13(a) is filed, to that proposed facility or use, such as an air navigation aid, airport, low or intermediate altitude Federal airway, instrument approach procedure, approved off-airway route, control zone, or transition area, or change therein.

(b) Minimum obstruction clearance altitudes are considered in place of minimum en route altitudes in applying the standards of this subpart to objects whenever planning information available at the time of filing of the notice required by § 77.13(a) indicates a need to lower the minimum en route altitude of a segment of a Federal airway, and that need may be filled by an additional VOR, DME, or other air navigation aid.

(c) The standards in this subpart apply to the effect of construction or alteration proposals upon an airport if, at the time of filing of the notice required by § 77.13(a), that airport is either listed in the FAA "Directory of Airports and Seaplane Bases" or is the subject of a proposal on file with the FAA.

(d) For the purposes of this part, only those seaplane bases with definitely defined areas are considered to be airports.

§ 77.23 Standards for determining obstructions.

(a) An existing object, including a mobile object, is, and a future object would be, an obstruction to air navigation if of greater height than any of the following heights or surfaces:

(1) A height of 500 feet above the surface at the site of the construction or alteration.

(2) Any imaginary surface established under § 77.25, 77.27, or 77.29.

(3) A height that is 200 feet above the ground or above the established airport elevation, whichever is higher, within five statute miles of the established reference point of an airport with its longest landing strip more than 3,600 feet in length, or within three statute miles of the established reference point of an airport with its longest landing strip 3,600 feet or less in length, and that height increases in the proportion of 100 feet for each additional statute mile of distance from the airport up to a maximum of 500 feet.

(4) A height that would require an increase in an instrument approach minimum flight altitude.

(5) A height in or under a low or intermediate altitude Federal airway, transition area, or control zone, or within five statute miles of the course of an approved off-airway route, that is either 200 feet above the ground or 1,451 feet below the established minimum flight altitude, whichever is higher.

(6) An imaginary surface that begins at an altitude of 500 feet below the minimum en route altitude of each Federal airway or approved off-airway route and extends from the lateral boundaries of that airway and from a distance of five statute miles horizontally on both sides from the course of that route. For a distance of 25 statute miles along the airway or route from the nearest electronic air navigation aid upon which the airway or route is based, the imaginary surface extends upward and outward at a slope of 1 to 50 to five statute miles horizontal distance from the boundaries of each airway and ten statute miles horizontal distance on both sides from the course of each route. At greater distances than 25 statute miles along the airway or route from the nearest such aid, the imaginary surface begins at the same height and distance in relation to each airway and route but extends outward the five statute miles distance on a horizontal plane.

(7) An imaginary surface that begins at an altitude of 500 feet below the minimum altitude of any instrument approach, initial approach, or procedure turn maneuvering area (defined in the FAA regulations governing instrument approach procedures) and extends upward and outward from the boundary of the area, including any buffer zone, at a slope of 1 to 50 for a distance of five horizontal miles.

(b) The standards of paragraph (a) of this section apply to traverse ways used or to be used for the passage of mobile objects only after the heights of those traverse ways are increased 17 feet for a highway, 25 feet for a railroad, and, for any other traverse way, an amount equal to the height of the highest unshielded mobile object that would normally traverse it.

(c) The airport imaginary surfaces described in paragraph (a)(2) of this section are established for airports in accordance with the IFR and VFR classifications. The FAA "Directory of Airports and Seaplane Bases" lists airports as either IFR, including those with IFR potential, or VFR. The IFR classification includes any airport with an instrument landing strip equipped with a precision landing aid or for which a "straight in" instrument approach is prescribed and any airport without such a strip but having the potential for the development of one. The VFR classification consists of airports with only non-instrument landing strips and without the potential for development of an instrument landing strip.

§ 77.25 Airport imaginary surfaces related to airport reference points.

The following airport imaginary surfaces are established for airports based on the actual measured length of the longest landing strip. A landing strip is a graded area of designated length and width upon which the longitudinal axis of the runway is centrally located or, where no prepared hard surface exists, that graded area used or intended for use in the takeoff and landing of aircraft.

(a) *IFR Airports and airports having IFR potential*—(1) *Inner horizontal surface.* A circular plane, 150 feet above the established airport elevation, with a radius from the established airport reference point of:

(i) 7,000 feet, for an airport with landing strips 3,600 feet or less in length.

(ii) 10,000 feet, for an airport with a landing strip more than 3,600 but not more than 6,400 feet in length.

(iii) 13,000 feet, for an airport with a landing strip more than 6,400 feet in length.

(2) *Conical surface.* A surface extending from the periphery of the inner horizontal surface upward and outward at a slope of 1 to 20 for a horizontal distance of 7,000 feet to a height of 500 feet above the established airport elevation.

(3) *Outer horizontal surface.* A circular plane, 500 feet above the established airport elevation, extending outward from the periphery of the conical surface:

(i) 8,000 feet, for an airport with a landing strip more than 3,600, but not more than 6,400, feet in length.

(ii) 30,000 feet, for an airport with a landing strip more than 6,400 feet in length.

(b) *VFR Airports*—(1) *Inner horizontal surface.* A circular plane, 150 feet above the established airport elevation with a radius from the airport reference point of:

(i) 7,000 feet, for an airport with landing strips 5,200 feet or less in length.

(ii) 10,000 feet, for an airport with a landing strip more than 5,200 feet in length.

(2) *Conical surface.* A surface extending from the periphery of the inner horizontal surface upward and outward at a slope of 1 to 20 for a horizontal distance of 7,000 feet to a height of 500 feet above the established airport elevation.

(3) *Outer horizontal surface.* There is no outer horizontal surface for VFR airports.

§ 77.27 Airport imaginary surfaces related to landing strips.

The following airport imaginary surfaces are established for landing strips:

(a) *IFR Airports and Airports having IFR potential.*—(1) *Primary surface.* A surface longitudinally centered on the landing strip with the same length as the strip except that it extends 200 feet beyond each end of the prepared hard surface of any strip with such a surface. The width of this surface is:

(i) 250 feet, for non-instrument landing strips of 3,600 feet or less in length.

(ii) 500 feet, for non-instrument landing strips more than 3,600 feet in length.

(iii) 1000 feet, for instrument landing strips.

The transverse profile of a primary surface is horizontal but the elevation of any point on the transverse or longitudinal profile coincides with that of the highest ground elevation along the width of the landing strip.

(2) *Instrument approach-departure surface.* A surface longitudinally centered on the extended centerline of the landing strip beginning at the end of the primary surface and rising upward and outward at a slope of 1 to 50 to an elevation of 500 feet above the established airport elevation, then extending at this elevation to 50,000 feet beyond the primary surface. This surface is 1,000 feet wide at the beginning and expands uniformly to a width of 16,000 feet at the outer extremity, 50,000 feet from the end of the primary surface.

(3) *Non-instrument approach-departure surface.* A surface longitudinally centered on the extended centerline of the landing strip, beginning at the end of the primary surface and rising to an

elevation of 500 feet above the established airport elevation. The slopes and dimensions of these planes are:

(i) Landing Strips more than 3,600 feet long—the surface is 500 feet wide at the end of the primary surface and rises at a slope of 1 to 40, expanding uniformly to a width of 4,500 feet at a distance of 20,000 feet.

(ii) Landing Strips 3,600 feet or less in length—the surface is 250 feet wide at the end of the primary surface and rises at a slope of 1 to 20, expanding uniformly to a width of 2,250 feet at a distance of 10,000 feet.

(4) *Transitional surface.* These surfaces extend upward and outward at a slope of 1 to 7 from both sides of the primary surface and the approach-departure surfaces until they intersect the inner horizontal, conical, outer horizontal, or other transitional surfaces, or reach the controlling height of 500 feet above the established airport elevation.

(b) *Airports with only VFR landing strips*—(1) *Primary surface.* A surface longitudinally centered on a landing strip with the same length as the landing strip. A landing strip with a prepared hard surface extends 100 feet beyond each end of the prepared hard surface. The width of the primary surface is:

(i) 200 feet, for a landing strip less than 150 feet in width.

(ii) 50 feet wider than the landing strip, for a landing strip 150 feet or more in width.

(2) *Approach-departure surface.* A surface longitudinally centered on the extended centerline of the landing strip beginning at the end of the primary surface and rising upward and outward to a height of 150 feet above the established airport elevation. The slopes and dimensions of these planes are:

(i) Landing Strips 5,200 feet or less in length—the surface is the same width at the end of the primary surface as the primary surface, a minimum of 200 feet, and expands uniformly, at a slope of 1 to 20, to a maximum width of 500 feet at a horizontal distance of 3,000 feet outward.

(ii) Landing Strips more than 5,200 feet in length—the surface is the same width at the end of the primary surface as the primary surface, a minimum of 200 feet, and expands uniformly, at a slope of 1 to 40, a maximum width of 800 feet at a horizontal distance of 6,000 feet outward.

(3) *Vertical surfaces.* These surfaces extend upward from the sides of the primary surface and the approach-departure surfaces to a height of 150 feet above the established airport elevation.

§ 77.29 Airport Imaginary Surfaces for Heliports.

(a) *Heliport primary surface.* A circular surface at the elevation of the established heliport elevation with a 500-foot radius from the center of each helipad.

(b) *Heliport conical surface.* A surface extending upward and outward from the circumference of each heliport primary surface at a slope of 1 to 8 to a height of 500 feet above the established heliport elevation.

Subpart D—Aeronautical Studies of Effect of Proposed Construction on Navigable Airspace

§ 77.31 Scope.

(a) This subpart applies to the conduct of aeronautical studies of the effect of proposed construction or alteration on the use of navigable airspace by aircraft.

(b) The conclusion of a study made under this subpart is normally a determination as to whether the specific proposal studied would have an adverse effect on air navigation.

§ 77.33 Initiation of studies.

(a) An aeronautical study is conducted by the FAA:

(1) Upon the request of the sponsor of any construction or alteration for which a notice is submitted under Subpart B, of this part, unless that construction or alteration would be located within an antenna farm area established under Subpart F of this part or is an obstruction in a runway clear zone; or

(2) Whenever the FAA determines it appropriate.

(b) If the proposed construction or alteration would exceed a standard of Subpart C of this part and would be located in a runway clear zone, the Air Traffic Division concerned notifies the sponsor and all other known interested persons, in writing, that the proposal would have an adverse effect on air navigation.

§ 77.35 Aeronautical studies.

(a) The Assistant Administrator of the region in which the proposed construction or alteration would be located, or his designee, conducts the aeronautical study of the effect of the proposal upon the safe and efficient utilization of the navigable airspace.

(b) To the extent considered necessary, the Assistant Administrator or his designee:

(1) Solicits comments from all interested persons;

(2) Explores objectives to the proposal and attempts to develop recommendations for adjustment of aviation requirements that would accommodate the proposed construction or alteration;

(3) Examines possible revisions of the proposal that would eliminate violation of the standards in Subpart C of this part; and

(4) Convenes a meeting with all interested persons for the purpose of gathering all facts relevant to the effect of the proposed construction or alteration on the safe and efficient utilization of the navigable airspace.

(c) The Assistant Administrator, or his designee, issues a determination as to whether the proposed construction or alteration would have an adverse effect on air navigation and sends copies to all known interested persons. This determination is final unless a petition for review is granted under § 77.37.

(d) If the sponsor revises his proposal to eliminate violation of the standards of Subpart C of this part, or withdraws it, the Assistant Administrator, or his designee, terminates the study and notifies all known interested persons.

§ 77.37 Review.

(a) The sponsor of any proposed construction or alteration or any person who stated a substantial aeronautical objection to it in an aeronautical study, may petition the Administrator, within 30 days after issuance of the determination under § 77.35 or revision or extension of the determination under § 77.39(c), for a review of the determination, revision or extension.

(b) The petition must be in triplicate and contain a full statement of the basis upon which it is made.

(c) The Administrator examines each petition and decides whether a review will be made and, if so, whether it will be:

(1) A review on the basis of written materials, including study of a report by the regional Assistant Administrator of the aeronautical study, briefs and related submissions by any interested party, and other relevant facts, with the Administrator affirming, revising, or reversing the determination issued under § 77.35 or §77.39(c).

(2) A review on the basis of a public hearing, conducted in accordance with the procedures prescribed in Subpart E of this part.

§ 77.39 Effective period of determination of no adverse effect on air navigation.

(a) Unless it is otherwise revised or terminated, each final determination, made under this subpart or Subpart E of this part, that a proposed obstruction would not have an adverse effect on air navigation, expires 18 months after its effective date unless the construction or alteration has begun, or upon the date the proposed construction or alteration is abandoned, whichever is earlier.

(b) In any case where a proposed obstruction, for which a determination of no adverse effect on air navigation has been issued, has not been started during the 18-month period any interested person many petition the Assistant Administrator of the FAA Region having jurisdiction to:

(1) Revise the final determination based on new facts that alter the basis upon which the determination was made; or

(2) Extend the effective period of the determination.

(c) The Assistant Administrator provides an appropriate review for each petition and the facts upon which it is based, and revises or extends the determination as indicated by his findings.

Subpart E—Rules of Practice for Hearings Under Subpart D

§ 77.41 Scope.

This subpart applies to hearings held by the FAA under Titles I, III, and X of the Federal Aviation Act of 1958 (49 U.S.C. Subchapters I, III, and X), on proposed construction or alteration that affects the use of navigable airspace.

§ 77.43 Nature of hearing.

Sections 4, 5, 7 and 8 of the Administrative Procedure Act (5 U.S.C. 1003, 1004, 1006 and 1007) do not apply to

hearings held on proposed construction or alteration to determine its effect on the safety of aircraft and the efficient use of navigable airspace because those hearings are fact-finding in nature. As a fact-finding procedure, each hearing is non-adversary and there are no formal pleadings or adverse parties.

§ 77.45 Presiding officer.

(a) If, under § 77.39, the Administrator grants a public hearing on any proposed construction or alteration covered by this part, the Director of the Air Traffic Service designates a member of that Service to be the Presiding Officer at the hearing.

(b) The Presiding Officer may:

(1) Give notice of the date and location of the hearing and any prehearing conference that may be held;

(2) Administer oaths and affirmations;

(3) Examine witnesses;

(4) Issue subpoenas and take depositions or have them taken;

(5) Obtain, in the form of a public record, all pertinent and relevant facts relating to the subject matter of the hearing;

(6) Rule, with the assistance of the Legal Officer, upon the admissibility of evidence;

(7) Regulate the course and conduct of the hearing; and

(8) Designate parties to the hearing and revoke those designations.

§ 77.47 Legal officer.

The General Counsel designates a member of his staff to serve as Legal Officer at each hearing under this subpart. The Legal Officer may examine witnesses and assist and advise the Presiding Officer on questions of evidence or other legal questions arising during the hearing.

§ 77.49 Notice of hearing.

In designating a time and place for a hearing under this subpart, the Presiding Officer considers the needs of the FAA and the convenience of the parties and witnesses. The time and place of each hearing is published in the "Notices" section of the FEDERAL REGISTER before the date of the hearing, unless the notice is impractical or unnecessary.

§ 77.51 Parties to the hearing.

The Presiding Officer designates the following as parties to the hearing:

(a) The proponent of the proposed construction or alteration.

(b) Those persons whose activities would be substantially affected by the proposed construction or alteration.

§ 77.53 Prehearing conference.

(a) The Presiding Officer may, at his discretion, hold a prehearing conference with the parties to the hearing and the Legal Officer before the hearing.

(b) At the direction of the Presiding Officer, each party to a prehearing conference shall submit a brief written statement of the evidence he intends to provide through his witnesses and by questioning other witnesses at the hearing, and shall provide enough copies of the statement so that the Presiding Officer may keep three for the FAA and give one to each other party.

(c) At the prehearing conference, the Presiding Officer reduces and simplifies the subject matter of the hearing so far as possible and advises the parties of the probable order of presenting the evidence.

§ 77.55 Examination of witnesses.

(a) Each witness at a hearing under this subpart shall, after being sworn by the Presiding Officer, give his testimony under oath.

(b) The party for whom a witness, other than an employee of the FAA, is testifying shall examine that witness. After that examination, other parties to the hearing may examine the witness, in the order fixed by the Presiding Officer. The Presiding Officer and the Legal Officer may then examine the witness. The Presiding Officer may grant any party an additional opportunity to examine any witness, if that party adequately justifies the additional examination.

(c) The Legal Officer examines each FAA employee who is a witness, before the other parties examine him. After that examination, the order prescribed in paragraph (b) of this section applies. An FAA employee may testify only as to facts within his personal knowledge and the application of FAA regulations and policies.

§ 77.57 Evidence.

(a) The Presiding Officer receives all testimony and exhibits that are relevant to the issues of the hearing. So far as possible, each party shall submit enough copies of his exhibits that the Presiding Officer may keep three copies for the FAA and give one to each other party.

(b) The Presiding Officer excludes any testimony that is irrelevant or unduly repetitious. A party to the hearing may object to the admission of evidence only on the ground that it is irrelevant.

§ 77.59 Subpoenas of witnesses and exhibits.

(a) The Presiding Officer of a hearing may issue subpoenas for any witness or exhibit that he determines may be material and relevant to the issues of the hearing. So far as possible, each party to the hearing shall provide the witnesses and exhibits that he intends to present at the hearing.

(b) If any party to the hearing is unable to provide his necessary witnesses and exhibits, he shall advise the Presiding Officer far enough in advance that the Presiding Officer can determine whether he should issue subpoenas for the desired witnesses or exhibits.

§ 77.61 Revision of construction or alteration proposal.

(a) The sponsor of any proposed construction or alteration covered by this Part may revise his proposal at any time before or during the hearing. If he revises it, the Presiding Officer decides whether the revision affects the proposal to the extent that he should send it to the Administrator for a redetermination of the need for a hearing.

(b) If the Presiding Officer decides that it does not need to be resubmitted to the Administrator, he advises the parties of the revised proposal and takes the action necessary to allow all parties to effectively participate in the hearing on the revised proposal. Without limiting his discretion, the Presiding Officer may recess and reconvene the hearing, or hold another prehearing conference.

§ 77.63 Record of hearing.

(a) Each hearing is recorded verbatim by an official reporter under an FAA contract. The transcript, and all exhibits, become a part of the record of the hearing.

(b) Any person may buy a copy of the transcript of the hearing from the reporter at the price fixed for it.

(c) The Presiding Officer may allow any party to withdraw an original document if he submits authenticated copies of it.

(d) Any person may buy, from the FAA, photostatic copies of any exhibit by paying the copying costs.

(e) A change in the official transcript of a hearing may be made only if it involves an error of substance. Any recommendation to correct the transcript must be filed with the Presiding Officer within five days after the hearing closes. The Presiding Officer reviews each request for a correction to the extent he considers appropriate and shall make any revisions that he finds appropriate as a result of that review.

§ 77.65 Recommendations by parties.

Within 20 days after the mailing of the record of hearing by the official reporter, or as otherwise directed by the Presiding Officer, each party may submit to the Presiding Officer five copies of his recommendations for a final decision to be made by the Administrator.

§ 77.67 Final decision of the Administrator.

After reviewing the evidence relevant to the questions of fact in a hearing, including the official transcript and the exhibits, the Administrator resolves all these questions, based on the weight of evidence, and makes his determination, stating the basis and reasons for it. He then issues an appropriate order to be served on each of the parties.

§ 77.69 Limitations on appearance and representation.

(a) A former officer or employee of the FAA may not appear on behalf of, or represent, any party before the FAA in connection with any matter to which this part applies, if he considered or passed on that matter while he was an officer or employee of the FAA.

(b) A person appearing before the FAA on any matter to which this part applies may not, in connection with that appearance, knowingly accept assistance from, or share fees with, any person who is prohibited, by paragraph (a) of this section, from appearing himself on that matter.

(c) A former official or employee of the FAA may not, within six months after he ceases to be such an officer or employee, appear before the FAA on be-

half of, or represent, any party in connection with any proceeding that was pending under this part while he was an officer or employee of the FAA, unless he obtains written consent from an appropriate officer of the FAA, based on a verified showing that he did not personally consider the matter concerned or gain particular knowledge of it while he was an officer or employee of the FAA.

Subpart F—Establishment of Antenna Farm Areas

§ 77.71 Scope.

(a) This subpart establishes antenna farm areas in which antenna structures may be grouped to localize their effect on the use of navigable airspace.

(b) It is the policy of the FAA to encourage the use of antenna farms and the single structure-multiple antenna concept for radio and television towers whenever possible. In considering proposals for establishing antenna farm areas, it considers as far as possible the revision of aeronautical procedures and operations to accommodate antenna structures that will fulfill broadcasting requirements.

§ 77.73 General provisions.

(a) An antenna farm area consists of a specified geographical location with established dimensions of area and height, where antenna towers with a common impact on aviation may be grouped. Each such area is established under the procedural requirements of section 4 of the Administrative Procedure Act.

(b) Each proposal for an antenna farm area is evaluated on the basis of its effect on the use of navigable airspace. The views of the Federal Communications Commission are requested on the effect that each establishment of an antenna farm area would have on its statutory responsibilities. Any views submitted by it are fully considered before the antenna farm concerned is established. If the Commission advises that the establishment of any proposed antenna farm area would interfere with its statutory responsibility, the proposed area is not established.

(c) The establishment of an antenna farm area is considered whenever it is proposed by:

(1) The FAA;

(2) The Federal Communications Commission;

(3) The sponsor of a proposed antenna tower; or

(4) Any person having a substantial interest in a proposed antenna tower.

§ 77.75 Establishment of antenna farm areas.

The airspace areas described in the following sections of this subpart are established as antenna farm areas.

NOTE: §§ 77.77–77.1100 reserved for descriptions of antenna farm areas.

[F.R. Doc. 63-8045; Filed, July 30, 1963; 9:00 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 2]

[Docket No. 15086]

ALLOCATION OF FREQUENCY BAND 1435–1535 MCLS

Order Extending Time for Filing Comments and Reply Comments

The Commission having before it for consideration a petition filed by the Aerospace Flight Test Radio Coordinating Council (AFTRCC) requesting that the time for filing comments in the above-captioned proceeding be extended to September 15, 1963; and

It appearing, that AFTRCC has undertaken a detailed collection and analysis of technical and economic data with a view to submitting it for consideration by the Commission; that the additional time requested is needed for completion of this task; that comments of this nature would be useful to the Commission; and, accordingly, that the request for an extension of time should be granted:

It is ordered, This 25th day of July 1963, pursuant to § 0.322(b) of the rules and regulations, that the time for filing comments in this proceeding is extended to September 16, 1963 (a Monday), and that the time for filing reply comments in this proceeding is extended to September 30, 1963.

Released: July 26, 1963.

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

[F.R. Doc. 63-8052; Filed, July 30, 1963; 9:01 a.m.]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1]

[Ex Parte No. 55; Sub No. 1]

RULES OF PRACTICE

Witnesses and Witness Examination at Oral Hearings; Notice of Proposed Rule Making

JULY 23, 1963.

On April 29, 1963, the Motor Carrier Lawyers Association, by its Committee on Legal Ethics, Unauthorized Practice of Law and Grievances, Reagan Sayers, Chairman, Century Life Building, Fort Worth 2, Texas, filed with the Commission a petition dated April 26, 1963, for amendment of the Commission's general rules of practice (49 CFR Part 1) affecting who may not testify as a witness and the form of witness examination at oral hearings. For procedural convenience the petition has been assigned Sub No. 1.

The issues presented by the petition are: (1) May a person, whether as (a) Class A lawyer, (b) Class B practitioner, or (c) full time employee or official, appearing for a party at interest in a proceeding, appear both in an adversary capacity and as a witness? (2) May such person defined in (1) above appear as a witness presenting oral narrative statements and testimony without the presentation of his testimony either in the traditional question and answer form or by written statement submitted to the other parties at interest?

The proposal of the Association is that § 1.74, *Witness examination,* be amended, for future application only, by adding two new paragraphs reading (headings supplied) as set forth below (involving lettering and heading the present text as paragraph (a) *Order of procedure*):

(b) *Who may not testify.* No person appearing for a party at interest in any proceeding, whether as a Class A or B practitioner, or as a full time employee or officer, may appear as both a participant in the proceedings in the role of counsel, and as a witness.

(c) *Form.* No witness other than an individual appearing for himself shall give testimony in oral narrative form without the traditional question and answer procedure or prepared statement as authorized by § 1.77 hereof, without the waiver and consent of all parties.

The Association asserts, as reasons for the proposed paragraph (b), that the appearance of practitioners or employees in a dual capacity is not ethical, and for the proposed paragraph (c), that oral narrative statements deprive opposing counsel of their right to object to argumentative and other matters before they become physically a part of the record, and that the traditional question and answer procedure or prepared statements are the proper and orderly way to present evidence and contribute to brevity and clarity in the record.

Anyone wishing to file representations in favor of, or against, the petition may do so. The Commission takes the position that paragraph (b) above should, in fairness, be construed as comprehending counsel exhibits within its scope. An original and 14 copies of views and comments should be submitted, addressed to the Secretary, Interstate Commerce Commission, Washington 25, D.C., within 30 days from the date of publication of this Notice in the FEDERAL REGISTER.

[SEAL] HAROLD D. McCOY,
Secretary.

[F.R. Doc. 63-8032; Filed, July 30, 1963; 8:51 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Office of the Secretary

[AA 643.3–m]

BALL BUBBLE CHEWING GUM FROM CANADA

Fair Value Determination

JULY 23, 1963.

A complaint was received that ball bubble chewing gum from Canada was being sold in the United States at less than fair value within the meaning of the Antidumping Act of 1921.

I hereby determine that ball bubble chewing gum from Canada is not being, nor likely to be, sold in the United States at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)).

Statement of reasons. Sales to the United States were outright transactions involving no relationships within the meaning of section 207 of the Antidumping Act. Sales in the home market were sufficient in quantity to form a basis for fair value comparison. Accordingly, purchase price was compared with home market price for fair value purposes.

Purchase price was determined by adding to the f.o.b. factory price to all purchasers for exportation to the United States the amount of drawback of duty paid on imported sugar used in the manufacture of the gum, refunded by the Canadian Government. This addition was made pursuant to the requirement of the Antidumping Act.

The home market price was the f.o.b. factory price for home consumption. It was compared with the purchase price in the United States as arrived at above. In no case was purchase price found to be lower than home market price.

This determination and the statement of reasons therefor are published pursuant to section 201(c) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(c)).

[SEAL] JAMES A. REED,
Assistant Secretary of the Treasury.

[F.R. Doc. 63–8033; Filed, July 30, 1963; 8:52 a.m.]

[T.D. 55955]

LIAISON FUNCTIONS IN CONNECTION WITH LITIGATION IN U.S. CUSTOMS COURT

JULY 30, 1963.

In order to provide maximum flexibility and speed in handling liaison functions with the United States Customs Court and the Customs Section, Civil Division, Department of Justice, in connection with litigation in the Customs Court the function of maintaining liaison at New York with the United States Customs Court and the Customs Section on behalf of the entire Customs Service shall be carried out by the Assistant to the Chief Counsel stationed at New York under the direct supervision of the Chief Counsel of Customs. Any customs legal functions at the Port of New York may from time to time be temporarily or permanently transferred by the Chief Counsel between the offices of the Solicitor for the Port of New York and the Assistant to the Chief Counsel, or designated by the Chief Counsel for performance under his direct supervision. T.D. 54455 is hereby modified accordingly, effective July 31, 1963.

[SEAL] G. D'ANDELOT BELIN,
General Counsel.

[F.R. Doc. 63–8149; Filed, July 30, 1963; 11:24 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50–47]

U.S. ARMY MATERIALS RESEARCH AGENCY

Notice of Issuance of Facility License Amendment

Please take notice that the Atomic Energy Commission has issued Amendment No. 5, set forth below, to Facility License No. R–65. The license, as previously amended, authorizes the U.S. Army Materials Research Agency to operate the pool-type nuclear reactor located at Watertown Arsenal, Watertown, Massachusetts. The amendment, as requested by the licensee's application for license amendment dated January 22, 1963 and supplement thereto dated April 23, 1963, authorizes the use of fuel elements fabricated by any one of the following methods in lieu of brazing which is presently used:

1. Roll swaging of fuel plates to side plates
2. Peening of fuel plate tabs in slots of side plates
3. Pinning fuel plates to side plates

The principal dimensions, materials and amount of uranium in each fuel element would remain unchanged, and thus the nuclear characteristics of the reactor would not be altered.

The Commission has found that:

1. Operation of the reactor in accordance with the license as amended will not present an undue hazard to the health and safety of the public and will not be inimical to the common defense and security;

2. The application for amendment complies with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations set forth in Title 10, Chapter I, CFR;

3. Prior public notice of proposed issuance of this amendment is not necessary in the public interest, since the amendment does not involve consideration of safety factors significantly different from those previously evaluated.

Within fifteen days from the date of publication of this notice in the FEDERAL REGISTER, the licensee may file a request for a hearing, and any person whose interest may be affected by this proceeding may file a petition for leave to intervene. Requests for a hearing and petitions to intervene shall be filed in accordance with the provisions of the Commission's "Rules of Practice" (10 CFR Part 2). If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

For further details with respect to this amendment see (1) the hazards analysis prepared by the Research and Power Reactor Safety Branch of the Division of Licensing and Regulation and (2) the licensee's application for license amendment dated January 22, 1963 and supplement thereto dated April 23, 1963, all of which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of item (1) above may be obtained at the Commission's Public Document Room or upon request addressed to the Atomic Energy Commission, Washington, D.C., Attention: Director, Division of Licensing and Regulation.

Dated at Bethesda, Md., this 19th day of July 1963.

For the Atomic Energy Commission.

F. N. WATSON,
Acting Chief, Research and Power Reactor Safety Branch, Division of Licensing and Regulation.

[License No. R–65, Amdt. No. 5]

License No. R–65, as amended, which authorizes the U.S. Army Materials Research Agency to possess and operate the pool-type nuclear reactor located at Watertown Arsenal, Watertown, Massachusetts, is hereby further amended as follows:

The U.S. Army Materials Research Agency, in accordance with its application for license amendment dated January 22, 1963, and supplement thereto dated April 23, 1963, is authorized to use fuel elements fabricated by any one of the following methods in lieu of brazing which is presently used:

1. Roll swaging of fuel plates to side plates
2. Peening of fuel plate tabs in slots of side plates
3. Pinning fuel plates to side plates

Date of issuance: July 19, 1963.

For the Atomic Energy Commission.

F. N. WATSON,
Acting Chief, Research & Power Reactor Safety Branch, Division of Licensing and Regulation.

[F.R. Doc. 63–7846; Filed, July 30, 1963; 8:45 a.m.]

CIVIL AERONAUTICS BOARD

[Docket 14507 etc.]

EASTERN AIR LINES, INC.

Routing Application Rule; Cancellation of Hearing Notice

Eastern Air Lines, Inc., having filed a motion on July 18, 1963, advising that it is canceling the tariff revision involved in this proceeding and requesting dismissal of the investigation, the notice dated June 26, 1963, of hearing to be held August 6, 1963, is hereby canceled.

Dated at Washington, D.C., July 26, 1963.

[SEAL] RALPH L. WISER,
Hearing Examiner.

[F.R. Doc. 63-8046; Filed, July 30, 1963; 9:00 a.m.]

[Docket 14248]

NORTH-SOUTH SERVICE AT SAVANNAH

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on September 17, 1963, at 10 a.m. (local time), in the De Soto Hotel, Bull and Liberty Streets, Savannah, Georgia, before the undersigned Examiner.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served on April 10, 1963, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., July 26, 1963.

[SEAL] JOSEPH L. FITZMAURICE,
Hearing Examiner.

[F.R. Doc. 63-8047; Filed, July 30, 1963; 9:00 a.m.]

[Dockets 13897, 13990]

PARAMOUNT AIRLINES, INC.

Notice of Postponement of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the oral argument in the above-entitled proceeding assigned to be heard on July 31, 1963, is hereby postponed to August 7, 1963, at 10:00 a.m., e.d.s.t., in Room 1027, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before the Board.

Dated at Washington, D.C., July 26, 1963.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 63-8048; Filed, July 30, 1963; 9:00 a.m.]

CIVIL SERVICE COMMISSION

MEDICAL OFFICERS

Notice of Increase in Minimum Rates of Pay

1. Under authority of section 504 of the Federal Salary Reform Act of 1962 and Executive Order 11073 and in accordance with recommendations of the Post Office Department, the Civil Service Commission has increased the minimum salary rates and the rate ranges for medical officers, occupational code 602, in the postal field service, at levels 12 through 16. The revised rates for these levels are as follows:

Level	Per annum rates								
	1	2	3	4	5	6	7	8	9
PFS-12	$10,610	$10,905	$11,200	$11,495	$11,790	$12,085	$12,380	$12,675	$12,970
PFS-13	11,675	12,000	12,325	12,650	12,975	13,300	13,625	13,650	14,275
PFS-14	12,835	13,190	13,545	13,900	14,255	14,610	14,965	15,320	15,675
PFS-15	14,120	14,510	14,900	15,290	15,680	16,070	16,460	16,850	17,240
PFS-16	15,535	15,965	16,395	16,825	17,255	17,685	18,115	18,545	

Coverage is nationwide.

2. The increased rates will be effective on the first day of the first pay period which begins after August 1, 1963.

3. As of the effective date, the Post Office Department will process a pay adjustment to increase the pay of current employees in the affected classes. If an employee is receiving basic compensation immediately prior to the effective date at one of the rates authorized by FPM Letter No. 530-2, he shall receive basic compensation at the corresponding numbered rate authorized by this action on and after such date.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] MARY V. WENZEL,
Executive Assistant to the Commissioners.

[F.R. Doc. 63-8059; Filed, July 30, 1963; 9:02 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[List 48; FCC 63-716]

STANDARD BROADCAST APPLICATIONS

Processing

JULY 26, 1963.

Notice is hereby given, pursuant to § 1.354(c) of the Commission rules, that on September 4, 1963, the standard broadcast applications listed in the Appendix below will be considered as ready and available for processing. Pursuant to §§ 1.106(b)(1) and 1.361(c) of the Commission's rules, an application, in order to be considered with any application appearing on the attached list or with any other application of file by the close of business on September 3, 1963, which involves a conflict necessitating a hearing with an application on this list, must comply with the interim criteria governing acceptance of standard broadcast applications set forth in the note to § 1.354 of the Commission rules and be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., by whichever date is earlier: (a) The close of business on September 3, 1963, or (b) the earlier effective cut-off date which a listed application or any other conflicting application may have by virtue of conflicts necessitating a hearing with applications appearing on previous lists.

Since this is the last list to be adopted prior to the Commission's August recess, the Commission has departed from its normal policy of adopting such lists with no more than 50 applications thereon in order that action can be taken on all applications presently in the "Processing Line-Awaiting Action" category without any unnecessary delay which might otherwise occur.

The attention of any party in interest desiring to file pleadings concerning any pending standard broadcast application pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, is directed to § 1.359(i) of the Commission rules for provisions governing the time of filing and other requirements relating to such pleadings.

Adopted: July 24, 1963.

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

APPENDIX

Applications from the top of the processing line:

BMP-9905 KFMB, San Diego, Calif.
Transcontinent Television Corp.
Has Lic: 540 kc, 5 kw, DA-N, U.
Has CP: Change antenna-transmitter location.
Req MP: 760 kc, 5 kw, DA-N, U.

BP-13390 WENC, Whiteville, N.C.
Whiteville Broadcasting Co.
Has: 1220 kc, 1 kw, Day.
Req: 1220 kc, 5 kw, Day.

BP-13978 WLIB, New York, N.Y.
New Broadcasting Co., Inc.
Has: 1190 kc, 1 kw, L-WOWO.
Req: 1190 kc, 10 kw, DA-1, L-WOWO.

BP-14162 KPUG, Bellingham, Wash.
KPUG, Inc.
Has: 1170 kc, 1 kw, DA-1, U.
Req: 1170 kc, 10 kw, DA-1, U.

BP-14702 KZEY, Tyler, Tex.
Tyler Broadcasting Co.
Has: 690 kc, 250 w, DA, Day.
Req: 690 kc, 1 kw, DA, Day.

BP-14743 WCHA, Chambersburg, Pa.
Chambersburg Broadcastong Co.
Has: 800 kc, 1 kw, Day.
Req: 800 kc, 5 kw, Day.

BP–14755 KIBE, Palo Alto, Calif.
Sundial Broadcasting Corp.
Has: 1220 kc, 1 kw, Day.
Req: 1220 kc, 5 kw, Day.

BP–14986 WKDN, Camden, N.J.
South Jersey Broadcasting Co.
Has: 800 kc, 1 kw, Day.
Req: 800 kc, 5 kw, DA, Day.

BMP–10563 WIZE, Springfield, Ohio
Radio Voice of Springfield, Inc.
Has Lic: 1340 kc, 250 w, U.
Has CP: Change antenna-transmitter location.
Req MP: 1340 kc, 250 w, 1 kw–LS, U.

BP–15722 WFOR, Hattiesburg, Miss.
Newforte, Inc.
Has: 1400 kc, 250 w, U.
Req: 1400 kc, 250 w, 1 kw–LS, U.

BP–15731 WHIT, New Bern, N.C.
Ray D. Williams.
Has: 1450 kc, 250 w, U.
Req: 1450 kc, 250 w, 1 kw–LS, U.

BP–15732 KBST, Big Spring, Tex.
The Snider Corp.
Has: 1490 kc, 250 w, U.
Req: 1490 kc, 250 w, 1 kw–LS, U.

BP–15740 WIRA, Fort Pierce, Fla.
Indian River Broadcasting Co.
Has: 1400 kc, 250 w, U.
Req: 1400 kc, 250 w, 1 kw–LS, U.

BP–15742 KDLR, Devils Lake, N. Dak.
KDLR, Inc.
Has: 1240 kc, 250 w, U.
Req: 1240 kc, 250 w, 1 kw–LS, U.

BP–15743 KEXO, Grand Junction, Colo.
Voice of Western Colorado, Inc.
Has: 1230 kc, 250 w, U.
Req: 1230 kc, 250 w, 1 kw–LS, U.

BP–15744 WSNT, Sandersville, Ga.
Radio Station WSNT, Inc.
Has: 1490 kc, 250 w, 500 w–LS, U.
Req: 1490 kc, 250 w, 1 kw–LS, U.

BP–15745 WINK, Fort Myers, Fla.
Fort Myers Broadcasting Co.
Has: 1240 kc, 250 w, U.
Req: 1240 kc, 250 w, 1 kw–LS, U.

BP–15751 WFPR, Hammond, La.
Airweb, Inc.
Has: 1400 kc, 250 w, U.
Req: 1400 kc, 250 w, 1 kw–LS, U.

BP–15752 WTTB, Vero Beach, Fla.
Tropics, Inc.
Has: 1490 kc, 250 w, U.
Req: 1490 kc, 250 w 1 kw–LS, U.

BP–15768 WINA, Charlottesville, Va.
Charlottesville Broadcasting Corp.
Has: 1400 kc, 250 w, 1 kw–LS, U.
Req: 1070 kc, 5 kw, DA–N, U.

BP–15804 WLAF, LaFollette, Tenn.
LaFollette Broadcasting Co., Inc.
Has: 1450 kc, 250 w, U.
Req: 1450 kc, 250 w, 1 kw–LS, U.

BP–15811 WQXT, Palm Beach, Fla.
Fairfax Broadcasting Co., Inc.
Has: 1340 kc, 250 w, U.
Req: 1340 kc, 250 w, 1 kw–LS, U.

BMP–10738 KFTW, Fredericktown, Mo.
Robert F. Neathery.
Has CP: 1450 kc, 250 w, U.
Reg. MP: 1450 kc, 250 w, 1 kw–LS, U.

BP–15814 KAOR, Oroville, Calif.
James E. Wally.
Has: 1340 kc, 250 w, U.
Req: 1340 kc, 250 w, 1 kw–LS, U.

BP–15817 KRUS, Ruston, La.
Ruston Broadcasting Co.
Has: 1490 kc, 250 w, 500 w–LS, U.
Req: 1490 kc, 250 w, 1 kw–LS, U.

BP–15827 New, Barbourville, Ky.
Golden East Broadcasting Co., Inc.
Req: 1490 kc, 250 w, U.

BP–15829 KORN, Mitchell, S. Dak.
Mitchell Broadcasting Association, Inc.
Has: 1490 kc, 250 w, U.
Req: 1490 kc, 250 w, 1 kw–LS, U.

BP–15830 KLTZ, Glasgow, Ky.
The Glasgow Broadcasting Co.
Has: 1240 kc, 250 w, U.
Req: 1240 kc, 250 w, 1 kw–LS, U.

BP–15831 KXIV, Phoenix, Ariz.
Camelback Broadcasting, Inc.
Has: 1400 kc, 250 w, U.
Req: 1400 kc, 250 w, 1 kw–LS, U.

BP–15838 New, Coolidge, Ariz.
Coolidge Broadcasting Co.
Req: 1150 kc, 1 kw, DA–N, U.

BP–15841 New, John Day, Oreg.
John Day Valley Broadcasters.
Req: 1400 kc, 250 w, U.

BP–15843 WIRO, Ironton, Ohio.
Tri-Radio Broadcasting Co.
Has: 1230 kc, 250 w, U.
Req: 1230 kc, 250 w, 1 kw–LS, U.

BP–15844 KBX, Muskogee, Okla.
Oklahoma Press Publishing Co.
Has: 1490 kc. 250 w, U.
Req: 1490 kc, 250 w, 1 kw–LS, U.

BP–15854 KORA, Bryan, Tex.
Bryan Broadcasting Co., Inc.
Has: 1240 kc, 250 w. U.
Req: 1240 kc, 250 w, 1 kw–LS, U.

BP–15856 KIKO, Miami, Ariz.
Willard Shoecraft.
Has: 1340 kc, 250 w, U.
Req: 1340 kc, 250 w, 1 kw–LS, U.

BP–15857 KDWT, Stamford, Tex.
ABKO Broadcasting Co.
Has: 1400 kc, 250 w, U.
Req: 1400 kc, 250 w, 1 kw–LS, U.

BP–15858 KTNM, Tucumcari, N. Mex.
Tucumcari Broadcasting Co., Inc.
Has: 1400 kc, 250 w, U.
Req: 1400 kc, 250 w, 1 kw–LS, U.

BP–15862 KAAA, Kingman, Ariz.
Wallace E. Stone.
Has: 1230 kc, 250 w, U.
Req: 1230 kc, 250 w, 1 kw–LS, U.

BP–15863 WKAM, Goshen, Ind.
Kosciusko Broadcasting Corp.
Has: 1460 kc, 1 kw, Day.
Req: 1460 kc, 500 w, 1 kw–LS, DA–N, U.

BP–15864 WNAG, Grenada, Miss.
Grenada Broadcasting Co., Inc.
Has: 1400 kc, 250 w, U.
Req: 1400 kc, 250 w, 1 kw–LS, U.

BP–15865 WBGN, Bowling Green, Ky.
Bowling Green Broadcasting Co.
Has: 1340 kc, 250 w, U.
Req: 1340 kc, 250 w, 1 kw–LS, U.

BP–15866 KTDO, Toledo, Oreg.
Edward C. McElroy, Jr.
Has: 1230 kc, 250 w, U.
Req: 1230 kc, 250 w, 1 kw–LS, U.

BP–15867 KTRC, Santa Fe, N. Mex.
Santa Fe Broadcasting Co., Inc.
Has: 1400 kc, 250 w, U.
Req: 1400 kc, 250 w, 1 kw–LS, U.

BP–15881 KPRM, Park Rapids, Minn.
DeLaHunt Broadcasting Co.
Has: 1240 kc, 100 w, U.
Req: 1240 kc, 250 w, U.

BP–15882 WFTL, Fort Lauderdale, Fla.
WFTL Broadcasting Co.
Has: 1400 kc, 250 w, U.
Req: 1400 kc, 250 w, 1 kw–LS, U.

BP–15883 KLIN, Lincoln, Nebr.
Fletcher-Mitchell Corp.
Has: 1400 kc, 250 w, U.
Req: 1400 kc, 250 w, 1 kw–LS, U.

BP–15885 KMUR, Murray, Utah.
Oral J. Wilkinson.
Has: 1230 kc, 250 w, U.
Req: 1230 kc, 250 w, 1 kw–LS, U.

BP–15890 WSRA, Milton, Fla.
Santa Rosa Broadcasting Co., Inc.
Has: 1490 kc, 250 w, U.
Req: 1490 kc, 250 w, 1 kw–LS, U.

BP–15894 KVWM, Show Low, Ariz.
Peak Broadcasting Co.
Has: 1050 kc, 250 w, Day.
Req: 970 kc, 1 kw, Day.

BP–15897 New, Glennallen, Alaska.
Central Alaskan Missions, Inc.
Req: 790 kc, 5 kw, U.

BP–15901 KFLW, Klamath Falls, Oreg.
David F. Snow.
Has: 1450 kc, 250 w, 500 w–LS, U.
Req: 1450 kc, 250 w, 1 kw–LS, U.

BP–15902 WSSO, Starkville, Miss.
The Starkville Broadcasting Co.
Has: 1230 kc, 250 w, U.
Req: 1230 kc, 250 w, 1 kw–LS, U.

BP–15917 WHBB, Selma, Ala.
Talton Broadcasting Co.
Has: 1490 kc, 250 w, U.
Req: 1490 kc, 250 w, 1 kw–LS, U.

BP–15918 WROX, Clarksdale, Miss.
Mrs. Eunice T. Imes.
Has: 1450 kc, 250 w, U.
Req: 1450 kc, 250 w, 1 kw–LS, U.

BP–15920 KBYG, Big Spring, Tex.
Big Spring Radio, Inc.
Has: 1400 kc, 250 w, U.
Req: 1400 kc, 250 w, 1 kw–LS, U.

BMP–10936 WPIK, Alexandria, Va.
Potomac Broadcasting Corp.
Has Lic: 730 kc, 1 kw, Day.
Has CP: 730 kc, 5 kw, DA, Day.
Req MP: Change directional antenna system.

BP–15928 WMBM, Miami Beach, Fla.
Community Service Broadcasters, Inc.
Has: 1490 kc, 250 w, U.
Req: 1490 kc, 250 w, 1 kw–LS, U.

BP–15933 WSHB, Raeford, N.C.
Stanmar Broadcasting Co.
Has: 1400 kc, 250 w, U.
Req: 1400 kc, 250 w, 1 kw–LS, U.

BMP–10937 KUNO, Corpus Christi, Tex.
KUNO Radio, Inc.
Has Lic: 1400 kc, 250 w, U.
Has CP: Change antenna-transmitter location.
Req MP: 1400 kc, 250 w, 1 kw–LS, U.

BP–15941 WKEI, Kewanee, Ill.
Kewanee Broadcasting Co.
Has: 1450 kc, 100 w, 500 w–LS, U.
Req: 1450 kc, 250 w, 500 w–LS, U.

BP–15942 WJNO, West Palm Beach, Fla.
WJNO Radio.
Has: 1230 kc, 250 w, U.
Req: 1230 kc, 250 w, 1 kw–LS, U.

BP–15945 WCMC, Wildwood, N.J.
Francis J. Matrangola.
Has: 1230 kc, 250 w, U.
Req: 1230 kc, 250 w, 1 kw–LS, U.

BP–15949 WELK, Charlottesville, Va.
Virginia Broadcasting Co.
Has: 1010 kc, 1 kw, Day.
Req: 1470 kc, 5 kw, DA–2, U.

BP–15953 WCWC, Ripon, Wis.
Greycote, Inc.
Has: 1600 kc, 5 kw, DA, Day.
Req: 1600 kc, 5 kw, DA–2, U.

BP–15955 New, Montpelier, Idaho.
Glacus G. Merrill.
Req: 1400 kc, 250 w, U.

BP–15956 WGCD, Chester, S.C.
Dispatch Broadcasting Company, Inc.
Has: 1490 kc, 250 w, U.
Req: 1490 kc, 250 w, 1 kw–LS, U.

BP–15958 KBZZ, La Junta, Colo.
La Junta Broadcasters.
Has: 1400 kc, 250 w, U.
Req: 1400 kc, 250 w, 1 kw–LS, U.

[F.R. Doc. 63–8054; Filed, July 30, 1963; 9:01 am.]

[Docket No. 14321—14328; FCC 63R–360]

BLACK HILLS VIDEO CORP.

Memorandum Opinion and Order Amending Issues

In re applications of Black Hills Video Corporation, Docket No. 14321, File No. 223–C1–R–61, for renewal of the license for Station KAR42, a facility in the Domestic Public Point-to-Point Microwave

Radio Service at Fredericktown, Missouri; Docket No. 14322, File No. 361–C1–ML–61, for a modification of license to cover a construction permit for additional facilities for Station KAR42 in the Domestic Public Point-to-Point Microwave Radio Service at Fredericktown, Missouri; Docket No. 14323, File No. 338–C1–R–61, for renewal of the license for Station KKU98, a facility in the Domestic Public Point-to-Point Microwave Radio Service at Davy, Texas; Docket No. 14324, File No. 752–C1–R–61, for renewal of the license for Station KAP22, a facility in the Domestic Public Point-to-Point Microwave Radio Service at Weld County Colorado; Docket No. 14325, File No. 753–C1–R–62, for renewal of the license for Station KAP23, a facility in the Domestic Public Point-to-Point Microwave Radio Service at Mitchell, Nebraska; Docket No. 14326, File No. 754–C1–R–61, for renewal of the license for Station KAP25, a facility in the Domestic Public Point-to-Point Microwave Radio Service at Crawford, Nebraska; Docket No. 14327, File No. 755–C1–R–61, for renewal of the license for Station KOY47, a facility in the Domestic Public Point-to-Point Microwave Radio Service at Albin, Wyoming; Docket No. 14328, File No. 756–C1–R–61, for renewal of the license for Station KAQ88, a facility in the Domestic Public Point-to-Point Microwave Radio Service at Custer, South Dakota.

1. The Review Board has before it a Petition to Enlarge Issues in the above-captioned proceeding,[1] wherein the Common Carrier Bureau requests the addition of the following issues:

> To determine whether subsequent to June 12, 1958, control of radio stations KAP22, KAP23, KAP25, KAQ88, and KOY47 was transferred in violation of Section 310(b) of the Communications Act of 1934, as amended, and the Commission's Rules and policies promulgated thereunder.
>
> To determine whether Black Hills Video Corporation and its principals knowingly misrepresented and/or knowingly withheld facts, or were lacking in candor, in documents filed with the Commission subsequent to June 12, 1958, and in testimony in this proceeding.

2. This proceeding involves a group of applications by Black Hills Video Corporation (Black Hills) for renewal of certain licenses in the Domestic Public Point-to-Point Microwave Radio Service. Black Hills, a wholly owned subsidiary of Midwest Video Corporation (Midwest), was granted construction permits for Stations KAP22, KAP23, KAP25, KOY47, and KAQ88 on April 24, 1957. These five stations comprise the Rapid City System which picks up signals from three television stations in Denver, Colorado and delivers them to Rapid City Television Corporation, a community antenna television system in Rapid City, South Dakota. Rapid City Television Corporation is also a subsidiary of Midwest.

3. On October 30, 1961, the Commission released a Memorandum Opinion and Order (FCC 61–1243) designating the above-captioned applications for hearing and on November 26, 1962, the Hearing Examiner released an Initial Decision (FCC 62D–94) denying the renewal of the subject applications. Subsequently, on January 8, 1963, the Commission released a Memorandum Opinion and Order (FCC 63–18) wherein it remanded the proceeding to the Examiner with directions to reopen the record for further hearing on the issues specified therein, and to issue a supplementary Initial Decision on such issues.

4. In its petition, the Bureau alleges that on or about May 23, 1963, Black Hills served on the Bureau financial data entitled "Black Hills Video Corporation and Rushmore Microwave Corporation Accountant's Report, Combined Financial Statements—August 20, 1962" (received in evidence as Black Hills Exhibit 7) and "Black Hills Video Corporation and Rushmore Microwave Corporation, Accountant's Report, Combined Financial Statements and Supplementary Data—August 20, 1962" (received in evidence as Black Hills Exhibit 8). Contained in these exhibits is a statement that "Black Hills Video Corporation and Rushmore Microwave Corporation operate a point-to-point microwave radio service as a common carrier under licenses issued to Black Hills Video Corporation." Based on this statement and certain testimony adduced at the hearing, the Bureau contends that a substantial question has been raised of unauthorized transfer of control of the Rapid City System from Black Hills to Rushmore Microwave Corporation (Rushmore). In addition, the Bureau contends that since Rushmore has been in existence since June 12, 1958, a question is raised as to whether Black Hills and its principals have knowingly concealed the existence of Rushmore.

5. Black Hills, in its opposition and affidavits attached thereto of G. R. Morrell, Executive Vice President of Black Hills, and Louise Johnson, office manager of Midwest, denies that Rushmore has participated in operating the Rapid City stations. Black Hills contends that Rushmore was organized in 1958 for the purpose of taking over the Rapid City System, but due to "circumstances", this was never done; a bank account was opened for Rushmore in 1958, but this account has been inactive since 1960; the accountant filing Rushmore's income tax returns mistakenly assumed the transfer from Black Hills to Rushmore had already taken place; the Rapid City System was carried on Rushmore's books because 20 percent of Rushmore's stock was owned by "local folks"; and the question of unauthorized transfer of control arises as a result of a misunderstanding of accounting practices.

6. The Review Board is of the opinion that the foregoing facts are sufficient to raise the questions suggested by the Bureau. The accounting exhibits of the applicant indicate that Rushmore, which is 80 percent owned by Midwest, is a going concern. In addition to the statement quoted by the Bureau, Exhibit 7 contains the statement that "* * * All of the licenses for systems operated by Rushmore Microwave Corporation * * * expired in 1961." Moreover, at the hearing, one of Midwest's officers testified that the purpose of Rushmore is to provide microwave pictures to Rapid City; that it has operated, and is continuing to act as a separate corporation; that it is carried as a separate corporation for income tax purposes; and that it has its own employees (Tr. 804–817). In view of these circumstances, the issues will be enlarged as requested by the Bureau.

Accordingly, it is ordered, This 24th day of July 1963, that the Petition to Enlarge Issues, filed June 18, 1963, by the Common Carrier Bureau is granted; and that the issues in the proceeding are enlarged to include the following issues:

To determine whether subsequent to June 12, 1958, control of radio stations KAP22, KAP23, KAP25, KAQ88, and KOY47 was transferred in violation of section 310(b) of the Communications Act of 1934, as amended, or the Commission's rules and policies promulgated thereunder.

To determine whether Black Hills Video Corporation and its principals knowingly misrepresented and/or knowingly withheld facts, or were lacking in candor in documents filed with the Commission subsequent to June 12, 1958, and in testimony in this proceeding.

Released: July 26, 1963.

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

[F.R. Doc. 63–8055; Filed, July 30, 1963; 9:01 a.m.]

[Docket No. 15089; FCC 63M–859]

SPANISH INTERNATIONAL TELEVISION CO., INC., ET AL.

Order Continuing Hearing

In re applications of Spanish International Television Company, Inc., Paterson, New Jersey, Docket No. 15089, File No. BPCT–3032; Progress Broadcasting Corporation, Paterson, New Jersey, Docket No. 15090, File No. BPCT–3067; Bartell Broadcasters, Inc., Paterson, New Jersey, Docket No. 15091, File No. BPCT–3103; Trans-Tel Corp., Paterson, New Jersey, Docket No. 15092, File No. BPCT–3114; for construction permits for New Television Broadcast Stations.

Pursuant to the agreements reached at the further prehearing conference on July 24, 1963:

It is ordered, This 24th day of July 1963, that the procedures to be followed in the further conduct of this proceeding shall be as set forth in the stipulations and rulings entered upon the transcript of the further prehearing conference held this day, and such stipulations and rulings are incorporated herein as though set forth at length.

And, it is further ordered, That the hearing herein presently scheduled for September 9, 1963, is postponed, without date, subject to further order.

Released: July 25, 1963.

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

[F.R. Doc. 63–8057; Filed, July 30, 1963; 9:01 a.m.]

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[1] The Review Board has under consideration: (1) Petition to Enlarge Issues, filed June 18, 1963, by the Common Carrier Bureau; and (2) an Opposition, filed July 11, 1963, by Black Hills Video Corporation.

FEDERAL MARITIME COMMISSION

[Docket No. 1100 (Sub. 1)]

MEMBER LINES OF NORTH ATLANTIC CONTINENTAL FREIGHT CONFERENCE AND CONTINENTAL NORTH ATLANTIC WESTBOUND FREIGHT CONFERENCE

Notice of Agreement Filed for Approval

Agreement 9218, a joint agreement between the member lines of the North Atlantic Continental Freight Conference and the Continental North Atlantic Westbound Freight Conference, has been filed for approval pursuant to section 15, Shipping Act, 1916.

Said agreement imposes as a condition of admission to, or for continued membership in, either conference the requirement that any line offering services within the jurisdiction of both conferences and seeking admission to, or desiring continued membership in one, be a member of the other conference.

Pursuant to said section 15 the Commission is directed, after notice and hearing, to disapprove any conference agreement or modification thereof which fails to provide reasonable and equal terms and conditions for admission and readmission to conference membership of other qualified carriers in the trade, or disapprove any agreement which it so finds to be unjustly discriminatory as between carriers, detrimental to the commerce of the United States or contrary to the public interest.

Agreements 4490 and 8210, the basic agreements of the North Atlantic Continental Freight Conference and the Continental North Atlantic Westbound Freight Conference, respectively, may, by virtue of Agreement 9218, fail to provide reasonable and equal terms and conditions for admission and readmission to conference membership as required by the aforesaid provisions of section 15 and Agreement 9218 may be unjustly discriminatory or unfair as between carriers, detrimental to the commerce of the United States, contrary to the public interest or otherwise violative of the Shipping Act, 1916.

Therefore, it is ordered, That, pursuant to sections 15 and 22 of the Shipping Act, 1916, the Commission, upon its own motion enter upon an investigation to determine (1) whether Agreements 4490 and 8210, as modified by Agreement 9218, would deny conference membership on reasonable and equal terms and conditions, and (2) whether Agreement 9218, if approved, would be unjustly discriminatory or unfair as between carriers, or operate to the detriment of the commerce of the United States, be contrary to the public interest, within the meaning of section 15, or would be in violation of any other provision of said Act; and (3) whether Agreement 9218 should be approved, disapproved, or modified in any respect, pursuant to said section 15.

It is further ordered, That the North Atlantic Continental Freight Conference, the Continental North Atlantic Westbound Freight Conference, and the member lines thereof, as indicated in Appendix A below, be made respondents in this proceeding.

It is further ordered, That this matter be consolidated for hearing with the proceeding in Docket No. 1100.

It is further ordered, That action with respect to Agreement 9218 be held in abeyance pending the Commission's decision and order in the proceeding herein ordered.

It is further ordered, That notice of this Order be published in the FEDERAL REGISTER and a copy thereof and notice of hearing be served upon respondents North Atlantic Continental Freight Conference, Continental North Atlantic Westbound Freight Conference, and the member lines thereof.

Notice of the institution of the proceeding in Docket 1100 appeared in the FEDERAL REGISTER of April 9, 1963 (28 F.R. 3461) and hearing has been scheduled to be held at Washington, D.C., before Herbert K. Greer, Presiding Examiner, beginning July 29, 1963, at 10:00 a.m., in Room 147, 1321 H Street NW., Washington, D.C.

All persons (including individuals, corporations, associations, firms, partnerships and public bodies) having an interest in Agreement 9218 and desiring to intervene in Docket 1100 (if they have not already intervened), should immediately file petitions for leave to intervene and serve copies thereof on respondents, with fifteen (15) copies to the Commission.

By order of the Commission, July 26, 1963.

THOMAS LISI,
Secretary.

APPENDIX A

AGREEMENT NO. 4490—NORTH ATLANTIC CONTINENTAL FREIGHT CONFERENCE

A. J. Pasch, Chairman, 17 Battery Place, New York 4, New York

AGREEMENT NO. 8210—CONTINENTAL NORTH ATLANTIC WESTBOUND FREIGHT CONFERENCE

Mrs. M. Bourgeois, Secretary, de Bomstraat 79, Antwerp, Belgium

MEMBERS AND ADDRESSES

Cosmopolitan Line, A/S J. Lukwig Mowinckels Rederi, New York 4, New York
Black Diamond Steamship Corporation, 2 Broadway, New York 4, New York
Compagnie Generale Transatlantique (Party to Agreement 4490 only), 17 State Street, New York 4, New York
Compagnie Maritime Belge, S. A., Compagnie Maritime Congolaise S.C.R.L., 67 Broad Street, New York 4, New York
Hamburg American Line, 17 Battery Place, New York 4, New York
Moore McCormack Line, Inc., 2 Broadway, New York 4, New York
North German Lloyd, 17 Battery Place, New York 4, New York
Holland America Line, 29 Broadway, New York 6, New York
United States Lines Company, 1 Broadway, New York 4, New York
Isbrandtsen Steamship Company, A Division of American Export Lines, Inc., 26 Broadway, New York 5, New York

[F.R. Doc. 63-8026; Filed, July 30, 1963; 8:49 a.m.]

FEDERAL POWER COMMISSION

[Docket No. E-7116]

COMMUNITY PUBLIC SERVICE CO.

Notice of Application

JULY 24, 1963.

Take notice that on July 22, 1963, an application was filed with the Federal Power Commission pursuant to section 204 of the Federal Power Act by Community Public Service Company ("Applicant"), a corporation organized under the laws of the State of Delaware and doing business in the States of New Mexico and Texas, with its principal business office at Fort Worth, Texas, seeking an order authorizing the issuance of 60,000 shares of 4.65 percent Cumulative Preferred Stock, Series B par value $100. According to the application 30,000 shares are to be sold for delivery the week of August 18 or August 25, 1963 and 30,000 shares for delivery the week of October 20 or October 27, 1963.

Applicant proposes to sell the shares at a price of $100 per share to 18 insurance companies and banks listed in the application. A fee of .65 percent or $39,000 is to be paid by Applicant to the Stone and Webster Securities Corporation. Applicant also proposes to pay a commitment fee of ½ of 1 percent (on an annual basis) of the purchase price on the second group of shares from the date of the purchase agreement to the date of sale.

The application states that the proceeds from the first 30,000 shares will be used to redeem the 30,000 shares of Series A 5.72 percent Preferred Stock now outstanding. The balance of the proceeds will be used to reimburse the treasury of the Applicant for construction, completion, extension or improvement of facilities expenditures.

Any person desiring to be heard or to make any protest with reference to said application should on or before the 15th day of August, 1963, file with the Federal Power Commission, Washington 25, D.C., petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file and available for public inspection.

GORDON M. GRANT,
Acting Secretary.

[F.R. Doc. 63-8007; Filed, July 30, 1963; 8:46 a.m.]

[Docket Nos. RI64-28 etc.]

PURE OIL CO. ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates;[1] and Allowing Rate Changes To Become Effective Subject to Refund

JULY 24, 1963.

The Pure Oil Company, Docket No. RI64-28; Continental Oil Company (Op-

[1] This order does not provide for the consolidation for hearing or disposition of the several matters covered herein, nor should it be so construed.

erator), et al., Docket No. RI64–29; Continental Oil Company, Docket No. RI64–30; Amerada Petroleum Corporation, Docket No. RI64–31; The British American Oil Producing Company, Docket No. RI64–32.

The above-named Respondents have tended for filing proposed changes in presently effective rate schedules for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are designated as follows:

Docket No.	Respondent	Rate schedule No.	Supplemental 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	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in docket Nos.
RI64–28	The Pure Oil Co., 200 East Golf Road, Palatine, Ill.	28	4	El Paso Natural Gas Co. (Cooper-Jal Field, Lea County, N. Mex.) (Permian Basin area).	$154	6–24–63	[2] 7–25–63	[3] 7–26–63	[5 6] 15.5599	[4 6 8] 15.85631	RI61–471
	The Pure Oil Co	59	5	El Paso Natural Gas Co. (Crosby Devonian Field, Lea County, N. Mex.) (Permian Basin area).	667	6–24–63	[2] 7–25–63	[3] 7–26–63	[5 6] 15.5599	[4 6 8] 15.85631	G–20280
RI64–29	Continental Oil Co. (Operator), et al., P.O. Box 2197 Houston 1, Tex.	92	12	El Paso Natural Gas Co. (Jalmat Field, Lea County, N. Mex.) (Permian Basin area).	24	7– 1–63	[2] 8– 1–63	[3] 8– 2–63	[5 6] 15.5599	[4 6 8] 15.8563	RI61–480
	Continental Oil Co. (Operator), et al.	109	10	El Paso Natural Gas Co. (various fields, Lea County, N. Mex.) (Permian Basin area).	6,682	7– 1–63	[2] 8– 1–63	[3] 8– 2–63	[6 7] 15.50174	[4 6 8] 15.7982	RI61–472
	do	214	12	El Paso Natural Gas Co. (Jalmat and Eumont Fields, Lea County, N. Mex.) (Permian Basin area).	1,598	7– 1–63	[2] 8– 1–63	[3] 8– 2–63	[5 6] 15.55987	[4 6 8] 15.8563	RI61–473
	do	104	12	El Paso Natural Gas Co. (Jalmat Field, Lea County, N. Mex.) (Permian Basin area).	8	7– 1–63	[2] 8– 1–63	[3] 8– 2–63	[9 10] 15.1114	[4 8 9] 15.3993	RI61–480
	do	85	18	El Paso Natural Gas Co. (various fields, Lea County, N. Mex.) (Permian Basin area).	12,532	7– 1–63	[2] 8– 1–63	[3] 8– 2–63	[5 6] 15.5599	[4 6 8] 15.8563	RI61–472
RI64–30	Continental Oil Co	163	4	El Paso Natural Gas Co. (Eumont Field, Lea County, N. Mex.) (Permian Basin area).	103	7– 1–63	[2] 8– 1–63	[3] 8– 2–63	[5 6] 15.5599	[4 6 8] 15.8563	RI61–470
	do	198	1	El Paso Natural Gas Co. (Northeast Haynes area, Rio Arriba County, N. Mex.) (San Juan Basin area).	413	7– 1–63	[2] 8– 1–63	[3] 8– 2–63	12.0	[4 11 15] 13.2295	----------
	do	199	2	do	66	7– 1–63	[2] 8– 1–63	[3] 8– 2–63	11.0	[4 11] 11.210375	----------
	do	208	3	El Paso Natural Gas Co. (Lindrith area, Rio Arriba County, N. Mex.) (San Juan Basin area).	417	7– 1–63	[2] 8– 1–63	[3] 8– 2–63	11.0	[4 11] 11.210375	----------
	do	221	3	El Paso Natural Gas Co. (Ballard Pictured Cliffs area, Rio Arriba and Sandoval Counties, N. Mex.) (San Juan Basin area).	221	7– 1–63	[2] 8– 1–63	[3] 8– 2–63	11.0	[4 11] 11.210375	----------
RI64–31	Amerada Petroleum Corp., P.O. Box 2040, Tulsa 2, Okla.	1	24	El Paso Natural Gas Co. (Eumont, Jalmat and other Fields, Lea County, N. Mex.) (Permian Basin area).	1,117 1,948	7– 2–63	[2] 8– 2–63	[3] 8– 3–63	[12] 15.55987 [13] 15.11144	[4 8 12] 15.85631 [13] 15.39933	RI62–333 RI62–333
	Amerada Petroleum Corp.	27	6	El Paso Natural Gas Co. (Bagley Field, Lea County, N. Mex.) (Permian Basin area).	15	7– 2–63	[2] 8– 2–63	[3] 8– 3–63	15.55987	[4 8] 15.85631	RI62–333
	do	31	9	El Paso Natural Gas Co. (Jalmat Field, Lea County, N. Mex.) (Permian Basin area).	27	7– 2–63	[2] 8– 2–63	[3] 8– 3–63	[13] 15.11144	[4 8 13] 15.39933	RI62–333
	do	55	6	El Paso Natural Gas Co. (Eumont Field, Lea County, N. Mex.) (Permian Basin area).	83	7– 2–63	[2] 8– 2–63	[3] 8– 3–63	[14] 15.55987	[4 8 14] 15.85631	RI62–333
	do	56	11	do	83	7– 2–63	[2] 8– 2–63	[3] 8– 3–63	[14] 15.55987	[4 8 14] 15.85631	RI62–333
	do	57	8	El Paso Natural Gas Co. (Jalmat Field, Lea County, N. Mex.) (Permian Basin area).	2,224 1,178	7– 2–63	[2] 8– 2–63	[3] 8– 3–63	[12] 15.55987 [13] 15.11144	[4 8 12] 15.85631 [13] 15.39933	RI62–334 RI62–334
	do	62	7	El Paso Natural Gas Co. (Bagley Field, Lea County, N. Mex.) (Permian Basin area).	2,757	7– 2–63	[2] 8– 2–63	[3] 8– 3–63	15.55987	[4 8] 15.85631	RI62–333
	do	69	4	do	120	7– 2–63	[2] 8– 2–63	[3] 8– 3–63	15.55987	[4 8] 15.85631	RI62–333
	do	72	5	do	53	7– 2–63	[2] 8– 2–63	[3] 8– 3–63	15.55987	[4 8] 15.85631	RI62–333
RI64–32	The British American Oil Producing Co., P.O. Box 749, Dallas 21, Tex.	45	2	El Paso Natural Gas Co. (Bisti Field, San Juan County, N. Mex.) (San Juan Basin area).	78	6–28–63	[2] 7–29–63	[3] 7–30–63	13.0	[4 11] 13.21755	----------
	The British American Oil Producing Co.	48	5	El Paso Natural Gas Co. (West Kutz Canyon Field, San Juan County, N. Mex.) (San Juan Basin area).	964	6–28–63	[2] 7–29–63	[3] 7–30–63	12.0	[4 11 15] 13.2008	----------

[1] Omitted.
[2] The stated effective date is the first day after expiration of the required statutory notice.
[3] The suspension period is limited to 1 day.
[4] Tax reimbursement increase.
[5] Includes 0.05987 cent per Mcf tax reimbursement.
[6] Subject to 0.4467 cent per Mcf deduction by buyer for low pressure gas (below 600 psig).
[7] Includes 0.00174 cent per Mcf tax reimbursement.
[8] Pressure base is 14.65 psia.
[9] Includes 0.4467 cent per Mcf deduction for low pressure gas (below 600 psig).
[10] Includes 0.0581 cent per Mcf tax reimbursement.
[11] Pressure base is 15.025 psia.
[12] High pressure gas—not to exceed 600 psig.
[13] Low pressure gas (includes 0.4467 cent per Mcf compression charge by buyer).
[14] Subject to deduction of 0.4467 cent per Mcf for compression, if required.
[15] Includes 1.0 cent per Mcf added to reflect minimum guarantee for liquids.

Respondents request waiver of notice to make their subject rate increases effective as of April 1, 1963, the effective date of the increase in the New Mexico Oil and Gas Emergency School Tax. Good cause has not been shown for waiving the 30-day notice requirement provided in section 4(d) of the Natural Gas Act to permit an earlier effective date for the proposed rate filings and such requests are denied. Since the proposed rate increases reflect only tax reimbursement, the suspension period for each may be shortened to one day from the date of expiration of the 30-days' statutory notice.

El Paso Natural Gas Company (El Paso) has protested the rate increases

filed by Respondents. It is El Paso's position that under their tax reimbursement clauses the sellers are entitled only to partial reimbursement for the increased portion of the tax, namely 0.55 percent (2.55 percent less 2.0 percent). Under the circumstances, we shall provide that the hearings provided for herein shall concern themselves with the contractual basis as well as the statutory lawfulness of the producers' rate filings.

Continental Oil Company (Continental) under Supplement No. 1 to its FPC Gas Rate Schedule No. 198, and The British American Oil Producing Company under Supplement No. 5 to its FPC Gas Rate Schedule No. 48, filed for tax reimbursement computed on the contract rate of 12.0 cents per Mcf exclusive of the 1.0 cent per Mcf minimum guarantee for liquid products. The addition of this minimum guarantee of 1.0 cent to the base rate of 12.0 cents plus tax reimbursement results in total proposed rates in excess of the 13.0 cents per Mcf area ceiling for increased rates in the San Juan Basin Area as set forth in the Commission's Statement of General Policy No. 61–1, as amended.

All of the proposed increased rates and charges, with the exceptions of those contained in Supplements Nos. 2, 3 and 3 to Continental's FPC Gas Rate Schedules Nos. 199, 208 and 221, respectively, 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, Chapter I, Part 2, § 2.56). The proposed increased rates and charges contained in Continental's aforementioned supplements are below the applicable area ceiling for increased rates but are suspended because of El Paso's protest.

The increased rates and charges so proposed may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds. It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon hearings concerning the contractual basis of the proposed filings, and the statutory lawfulness of the producers' proposed changes, and that the above-designated supplements be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the Regulations under the Natural Gas Act (18 CFR Chapter I), public hearings shall be held upon dates to be fixed by notices from the Secretary concerning the contractual basis of the proposed rate filings which El Paso has protested, and the statutory lawfulness of the producers' proposed increased rates and charges contained in the above-designated supplements, with the exception of the hearings with respect to the proposed rates contained in Supplements Nos. 2, 3 and 3 to Continental's FPC Gas Rate Schedules Nos. 199, 208 and 221, respectively, which shall involve only the contractual basis for the filings.

(B) Pending hearings and decisions thereon, the above-designated rate supplements are hereby suspended and the use thereof deferred until the date indicated in the above "Date Suspended Until" column, and thereafter until such further time as they are made effective in the manner prescribed by the Natural Gas Act: *Provided, however,* That the supplements to the rate schedules filed by Respondents, as set forth above, shall become effective subject to refund on the date and in the manner herein prescribed if within 20 days from the date of the issuance of this order Respondents shall each execute and file under its above-designated docket number with the Secretary of the Commission its agreement and undertaking to comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, accompanied by a certificate showing service of copies thereof upon all purchasers under the rate schedule involved. Unless Respondents are advised to the contrary within 15 days after the filing of their respective agreements and undertakings, such agreements and undertakings shall be deemed to have been accepted.

(C) Neither the supplements hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until these proceedings have been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before September 9, 1963.

By the Commission.

GORDON M. GRANT,
Acting Secretary.

[F.R. Doc. 63-8008; Filed, July 30, 1963; 8:46 a.m.]

[Docket No. CP63-347]

COLORADO-WYOMING GAS CO.

Notice of Application and Date of Hearing

JULY, 24, 1963.

Take notice that on June 17, 1963, Colorado-Wyoming Gas Company (Applicant) filed an application in Docket No. CP63-347 pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing it to purchase from McWood Corporation, 8.35 miles of 4-inch pipeline located in the Southwest Roggen Field, Weld County, Colorado. This pipeline is presently owned and operated by McWood Corporation to deliver residue gas from its gasoline plant to Applicant at a point near Keenesburg, Weld County, Colorado. Applicant further seeks authorization to install and operate certain metering and delivery facilities near Keenesburg, Colorado; to provide a new delivery point for the sale of 9,500 Mcf of gas to Greeley Gas Company, an existing resale customer of Applicant; and to abandon pursuant to section 7(b) a small metering station near Loveland, Larimer County, Colorado, all as more fully set forth in the application on file with the Commission and open to public inspection.

The total estimated cost of the facilities to be acquired and constructed is $91,645, to be financed from current working funds. The original depreciated cost of the metering station which Applicant proposes to abandon is $3,495.

Applicant's contract demand for peak day gas for the 1963–1964 heating season will not be affected by the small additional volume of gas to be made available to Greeley Gas Company through its proposed facilities.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

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 on September 5, 1963, at 9:30 a.m., e.d.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before August 25, 1963. Failure of any party to appear at and participate in the hearing shall be construed as a waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

GORDON M. GRANT,
Acting Secretary.

[F.R. Doc. 63-8006; Filed, July 30, 1963; 8:45 a.m.]

HOUSING AND HOME FINANCE AGENCY

Office of the Administrator

REGIONAL ADMINISTRATORS; REGIONAL DIRECTORS OF COMMUNITY FACILITIES; AND DIRECTOR FOR NORTHWEST OPERATIONS, REGION VI (SEATTLE, WASHINGTON)

Delegation of Authority To Execute Contracts for Audits of Projects Financed Under Accelerated Public Works Program

Each Regional Administrator of the Housing and Home Finance Agency, each

Regional Director of Community Facilities, and the Director for Northwest Operations, Region VI, at Seattle, Washington, is hereby authorized to execute contracts for audits of projects financed with grants-in-aid under section 202(e) of the Housing Amendments of 1955, as amended by section 5(b) of the Public Works Acceleration Act (42 U.S.C. 1492(e)).

(62 Stat. 1283 (1948), as amended by 64 Stat. 80 (1950), 12 U.S.C. 1701c)

Effective as of the 23d day of July, 1963.

[SEAL] ROBERT C. WEAVER,
Housing and Home Finance Administrator.

[F.R. Doc. 63-8021; Filed, July 30, 1963; 8:48 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-4156]

ARKANSAS POWER & LIGHT CO. AND MIDDLE SOUTH UTILITIES, INC.

Notice of Proposed Transfer by Subsidiary Company of a Portion of Restricted Earned Surplus to Common Stock Capital Account and Proposed Issuance of Common Stock to Holding Company

JULY 25, 1963.

In the matter of Arkansas Power & Light Company and Middle South Utilities, Inc.; Two Broadway, New York 4, New York.

Notice is hereby given that Middle South Utilities, Inc. ("Middle South"), a registered holding company, and its public-utility subsidiary company, Arkansas Power & Light Company ("Arkansas"), have filed a joint application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 7, 9, and 12 of the Act as applicable to the proposed transactions. All interested persons are referred to the joint application-declaration, on file at the office of the Commission, for a statement of the transactions therein proposed which are summarized below.

As of April 30, 1963, the earned surplus of Arkansas amounted to $19,077,056, of which $9,039,043 was restricted against the payment of cash dividends on common stock by the provisions of the company's first mortgage bond indenture. Arkansas proposes to transfer $3,000,000 of such restricted surplus and credit such amount to its Common Stock Capital Account. Immediately following such transfer, Arkansas proposes to issue to Middle South, and Middle South (which is the holder of all of the issued and outstanding shares of Arkansas' Common Stock, $12.50 par value) proposes to acquire, 240,000 additional shares of authorized and unissued common stock aggregating $3,000,000.

It is stated that the issuance of such common stock will permit Arkansas to convert into capital a portion of its restricted earned surplus which has been permanently invested in betterments and improvements to its physical properties.

The proposed transfer to Arkansas' Common Stock Capital Account and the proposed issuance of common stock have been authorized by the Arkansas Public Service Commission and the Tennessee Public Service Commission. The joint application-declaration states that no other State regulatory body or agency and no Federal commission or agency, other than this Commission, has jurisdiction over the proposed transactions. It is also stated that no special and separable expenses are anticipated in connection with the proposed transactions, except for Federal issuance taxes payable by Arkansas in the amount of $3,554.40.

Notice is further given that any interested person may, not later than August 19, 1963, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said joint application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed contemporaneously with the request. At any time after said date, the joint application-declaration, as filed or as amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 63-7980; Filed, July 30, 1963; 8:45 a.m.]

[File No. 1-3421]

CONTINENTAL VENDING MACHINE CORP.

Order Summarily Suspending Trading

JULY 25, 1963.

In the matter of trading on the American Stock Exchange and the Philadelphia-Baltimore-Washington Stock Exchange in the common stock, 10-cent par value and trading on the American Stock Exchangne in the 6-percent convertible subordinated debentures due September 1, 1976 of Continental Vending Machine Corporation.

The common stock, 10-cent par value, of Continental Vending Machine Corp., being listed and registered on the American Stock Exchange and having unlisted trading privileges on the Philadelphia-Baltimore-Washington Stock Exchange, and the 6-percent convertible subordinated debentures due September 1, 1976 being listed and registered on the American Stock Exchange; and

The Commission being of the opinion that the public interest requires the summary suspension of trading in such securities on such Exchanges and that such action is necessary and appropriate for the protection of investors; and

The Commission being of the opinion further that such suspension is necessary in order to prevent fraudulent, deceptive or manipulative acts or practices, with the result that it will be unlawful under section 15(c)(2) of the Securities Exchange Act of 1934 and the Commission's Rule 15c2-2 thereunder for any broker or dealer to make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of any such security, otherwise than on a national securities exchange;

It is ordered, Pursuant to section 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the American Stock Exchange and the Philadelphia-Baltimore-Washington Stock Exchange be summarily suspended in order to prevent fraudulent, deceptive or manipulative acts or practices, this order to be effective for the period July 26, 1963, through August 4, 1963, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 63-8044; Filed, July 30, 1963; 8:59 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice No. 264]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

JULY 26, 1963.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission, under the Commission's Deviation Rules Revised, 1957 (49 CFR 211.1(c)(8)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 211.1(d)(4)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 211.1(e)) at any time but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Deviation Rules Revised, 1957, will be numbered consecutively for convenience in identification and protests if any should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC 10761 (Deviation No. 29) TRANSAMERICAN FREIGHT LINES, INC., 1700 North Waterman Avenue, Detroit 9, Mich., filed July 5, 1963. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) from Columbus, Ohio, over Interstate Highway 70 to Washington, Pa., thence over Interstate Highway 70S to junction Pennsylvania Turnpike at the New Stanton Interchange thence over Pennsylvania Turnpike to Breezewood, Pa., thence over Interstate Highway 70 to Frederick, Md., thence over Interstate Highway 70N to Baltimore, Md., and return over the same routes, and (2) from Columbus to Frederick, Md., over the route designated above; thence over Interstate Highway 70S to Washington, D.C., and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: from Dayton, Ohio, over U.S. Highway 40 to Bridgeport, Ohio, thence over various routes to Pittsburgh, Pa.; between Cincinnati, Ohio, and Pittsburgh, Pa., over U.S. Highway 22; between Pittsburgh and Harrisburg, Pa., over Pennsylvania Turnpike; from Cumberland, Md. over U.S. Highway 40 to Washington, Pa., thence over U.S. Highway 19 to Pittsburgh; from Washington, Pa. over U.S. Highway 40 to Wheeling, W. Va., thence over U.S. Highway 250 to Moundsville, W. Va.; from Baltimore, Md., over various highways to Hagerstown, Md., thence over U.S. Highway 40 to Cumberland, Md., thence over U.S. Highway 220 to Bedford, Pa., thence over various highways including U.S. Highway 30 to Pittsburgh, Pa.; from Hancock, Md., over U.S. Highway 522 and U.S. Highway 126 to Breezewood, Pa., thence over U.S. Highway 30 to Bedford, Pa.; from Washington, D.C., over U.S. Highway 240 to junction Maryland Highway 355 (formerly U.S. 240), thence over Maryland Highway 355 to Frederick, Md., thence over U.S. Highway 40, and Alternate U.S. Highway 40 to Hagerstown; from Baltimore, Md. over Maryland Highway 144 (formerly U.S. 40) to junction U.S. Highway 40, thence over U.S. Highway 40 to junction Maryland Highway 144 (formerly U.S. 40), thence over Maryland Highway 144 to junction U.S. Highway 40, thence over U.S. Highway 40 via Frederick, Md., to junction Alternate U.S. Highway 40 (formerly U.S. 40) thence over Alternate U.S. Highway 40 to Hagerstown, Md.

No. MC 22301 (Deviation No. 1) SIOUX TRANSPORTATION COMPANY, 1619 11th Street, Sioux City, Iowa, filed July 18, 1963. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: from Omaha, Nebr., over city streets to Council Bluffs, Iowa, thence over Iowa Highway 92 to Griswold, Iowa, thence over Iowa Highway 48 to junction U.S. Highway 6, thence over U.S. Highway 6 to junction Interstate Highway 80, thence over U.S. Highway 6 and Interstate Highway 80 to Iowa City, thence over Interstate Highway 80 to Davenport, Iowa, thence over U.S. Highway 6 and Interstate Highway 80 to junction Interstate Highway 55, thence over Interstate Highway 55 to junction U.S. Highway 66, thence to Chicago, Ill. and return over the same route. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: from Omaha over U.S. Highway 75 to Missouri Valley, Iowa, thence over U.S. Highway 30 to junction Alternate U.S. Highway 30, and thence over Alternate U.S. Highway 30 to Chicago, and return over the same route.

No. MC 80430 (Deviation No. 5), GATEWAY TRANSPORTATION CO., INC., 2130–2150 South Avenue, La Crosse, Wis., filed June 24, 1963. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *Classes A and B explosives*, over a deviation route as follows: From Rockford, Ill., over Interstate Highway 90 to junction U.S. Highways 12 and 16, north of Wisconsin Dells, Wis., and return over the same route, for operating convenience only. The notice indicates that the carrier presently is authorized to transport the same commodities over pertinent service routes as follows: From junction U.S. Highways 16 and 51 near Portage, Wis., over U.S. Highway 51 to Madison, Wis.; from Minneapolis, Minn., over U.S. Highway 12 to junction Wisconsin Highway 172, thence over Wisconsin Highway 172 to Eau Claire, Wis., thence over U.S. Highway 53 to junction U.S. Highway 12, thence over U.S. Highway 12 via Madison, Wis., and Richmond, Ill., to Chicago, Ill.; from Madison over U.S. Highway 51 to Beloit, Wis., to Rockford; from Madison over Wisconsin Highway 13 to Beloit, and return over the same routes.

No. MC 107475 (Deviation No. 10), DANCE FREIGHT LINES, INC., 920 Dance Court, Cincinnati 3, Ohio, filed July 18, 1963. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route, as follows: From Knoxville, Tenn., over Interstate Highway 40 to Asheville, N.C., and return over the same route, for operating convenience only. The notice indicates that the carrier presently is authorized to transport the same commodities over a pertinent service route as follows: From Knoxville over U.S. Highways 25 and 70 to Asheville, and return over the same route.

No. MC 110325 (Deviation No. 11) TRANSCON LINES, 1206 South Maple Avenue, Los Angeles 15, Calif., filed July 1, 1963. Carrier proposes to operate as a *common carrier*, by motor vehicle of *general commodities*, with certain exceptions, over a deviation route as follows: from Tulsa, Okla., over Interstate Highway 44 to junction U.S. Highway 166 approximately six (6) miles southwest of Joplin, Mo., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: from Tulsa, Okla., over U.S. Highway 169 to junction U.S. Highway 166, thence over U.S. Highway 166 to its junction with Interstate Highway 44 approximately six (6) miles southwest of Joplin, Mo., and return over the same route.

MOTOR CARRIERS OF PASSENGERS

No. MC 1501 (Deviation No. 132) THE GREYHOUND CORPORATION (Eastern Greyhound Lines Division) 1400 West Third Street, Cleveland 13, Ohio, filed July 1, 1963. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express, newspapers* and *mail*, in the same vehicle with passengers, over a deviation route as follows: (a) between the junction of Interstate Highway 80 and U.S. Highway 46 near Denville, N.J., and the junction Interstate Highway 80 and U.S. Highway 46 approximately 2 miles east of Netcong, N.J., over Interstate Highway 80, and (b) between the junction of Interstate Highway 80 and U.S. Highway 46 near Columbia, N.J., and the junction of Interstate Highway 80 and U.S. Highway 611 approximately 1 mile west of Stroudsburg, Pa., over Interstate Highway 80 serving no intermediate points, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and their baggage, and express, newspapers and mail, over a pertinent service route as follows, from Scranton, Pa., thence over Pennsylvania Highway 307 to junction U.S. Highway 611 at Dalesville Junction, Pa., thence over U.S. Highway 611 (including relocation of U.S. Highway 611 between Ells Corner and Tobyhanna, Pa.), via Mount Pocono and Stroudsburg, Pa., to junction U.S. Highway 46, thence over U.S. Highway 46 via Buttzville, N.J., to Pine Brook, N.J., thence over Bloomfield Avenue to Newark, N.J., thence over U.S. Highway 1 to Jersey City, N.J., and thence through the Holland Tunnel to New York, and return over the same route.

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 63-8027; Filed, July 30, 1963; 8:50 a.m.]

[Notice No. 842]

MOTOR CARRIER TRANSFER PROCEEDINGS

JULY 26, 1963.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant

to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC 65820. By order of July 16, 1963, the Transfer Board approved the transfer to Berglund Trucking Inc., 2936 West 83d Street, Chicago, Ill., of the operating rights claimed in No. MC 96705 (Sub No. 1), under the "grandfather clause" of section 206(a)(7)(B), Interstate Commerce Act, by Joseph Marfise, doing business as Berglund Trucking Company, same address, for which a certificate of registration to operate in interstate or foreign commerce is sought corresponding to a grant of intrastate authority issued by the Illinois Commerce Commission in No. 3102MC.

No. MC–FC 65892. By order of July 17, 1963, the Transfer Board approved the transfer to Pavia Trucking Company, a corporation, Cleveland, Ohio, of Certificate in No. MC 6696, issued April 19, 1941, to F. W. Zimmerman Moving Company, a corporation, Cleveland, Ohio, authorizing the transportation of: General commodities, excluding household goods, commodities in bulk, and other specified commodities, between points in Cuyahoga County, Ohio. Jay G. Short, 823 Standard Building, Cleveland 13, Ohio, attorney for transferor. Ben Lewitt, 1672 Hanna Building, Cleveland 15, Ohio, attorney for transferee.

No. MC–FC 65927. By order of July 16, 1963, the Transfer Board approved the transfer to Wachusetts Bituminous Products Co., a corporation, Worcester, Mass., of Permit in No. MC–2768, issued June 14, 1941, to Bituminous Distributing Service, Inc., Worcester, Mass., authorizing the transportation of: Bituminous road materials between points in Massachusetts, between points in New Hampshire, between points in Connecticut, between points in Vermont, between points in Rhode Island, between points in Maine, between Taunton and Framingham, Mass., on the one hand, and, on the other, Shelton, Conn., and points in Rhode Island, and between Taunton and Framingham, Mass., and Shelton, Conn., on the one hand, and, on the other, points in New Hampshire, those as specified in Vermont and Maine; and tar, between points in New York. Kenneth B. Williams, 111 State Street, Boston 9, Mass., attorney for applicants.

No. MC–FC 65940. By order of July 16, 1963, the Transfer Board approved the transfer to Lyle E. Rice, Clearwater, Nebr., of Certificate in No. MC 9369, issued June 12, 1941 to A. J. Rice, Clearwater, Nebr., authorizing the transportation of commodities of a general commodity nature, (1) between Clearwater, Nebr., and points within 50 miles thereof, on the one hand, and, on the other, points in Iowa, and (2) from Sioux City and Council Bluffs, Iowa to Clearwater, Nebr., and points within 50 miles thereof.

No. MC–FC 66054. By order of July 16, 1963, the Transfer Board approved the transfer to Levitan Moving & Storage Corp., New York, N.Y., of Certificate in No. MC 17600, issued by the Commission January 22, 1953, to Brown's Warehouse Corp., New York, N.Y., authorizing the transportation, over irregular routes, of household goods, between New York, N.Y., on the one hand, and, on the other, points in Vermont, Massachusetts, Rhode Island, Connecticut, New York New Jersey, Pennsylvania, Delaware, Maryland, and the District of Columbia. Jerome G. Greenspan, 92 Liberty Street, New York 6, N.Y., attorney for applicants.

No. MC–FC 66077. By order of July 16, 1963, the Transfer Board approved the transfer to William J. Mulhern doing business as Mulhern Truck Line, Clarion, Iowa, of Permit in No. MC 124881 issued April 5, 1963, to Marjorie Sumners, doing business as Sumners Truck Line, Clarion, Iowa, authorizing the transportation of livestock, livestock feeds, packinghouse tankage, bone meal, and meat scraps, over irregular routes, between Austin, Minn., and Fremont, Nebr., on the one hand, and, on the other, points in that part of Iowa bounded by a line beginning at the Iowa-Minnesota State line and extending south along U.S. Highway 65 to Iowa Falls, Iowa, thence west along U.S. Highway 20 to its junction with U.S. Highway 169, thence north along U.S. Highway 169 to its junction with Iowa Highway 3, thence east along Iowa Highway 3 to its junction with Iowa Highway 60, thence north 14 miles along Iowa Highway 60 to junction with unnumbered county road, thence east along said unnumbered county road through Kanawha, Iowa, to Goodell, Iowa, thence north along U.S. Highway 69 to the Iowa-Minnesota State line, thence east along the Iowa-Minnesota State line to point of beginning, including all points on the indicated portions of the highways specified except the town of Kanawha, Iowa. Marjorie Sumners, 509 South Main St., Clarion, Iowa.

No. MC–FC 66090. By order of July 16, 1963, the Transfer Board approved the transfer to Vancouver Tours and Transit Limited, West Vancouver, British Columbia, Canada, of Certificate in No. MC 108204 (Sub No. 1), issued by the Commission November 14, 1947, to Atkins Stage Lines Limited, Chilliwack, British Columbia, Canada, authorizing the transportation of passengers and their baggage, in charter operations, over irregular routes, between the boundary of the United States and Canada, at Sumas, Wash., on the one hand, and, on the other, points in Washington.

No. MC–FC 66101. By order of July 17, 1963, the Transfer Board approved the transfer to Anthony Adam Fazio, doing business as Anthony Adams, Jr., and Adams World Wide Movers, Ramsy, N.J., of a portion of Certificate in No. MC 107972, issued May 5, 1961, to Massive Trucking, Inc., Clifton, N.J., authorizing the transportation, over irregular routes, of: Household goods, between New York, N.Y., points in Orange and Rockland Counties, N.Y., and points in Bergen, Passaic, Morris, Essex, and Sussex Counties, N.J. John M. Zachara, Post Office Box 2860, Paterson 28, N.J., practitioner.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 63–8028; Filed, July 30, 1963; 8:50 a.m.]

[Notice No. 550]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

JULY 26, 1963.

The following publications are governed by the Interstate Commerce Commission's general rules of practice including special rules (49 CFR 1.241) governing notice of filing of applications by motor carriers of property or passengers or brokers under sections 206, 209, and 211 of the Interstate Commerce Act and certain other proceedings with respect thereto.

All hearings and prehearing conferences will be called at 9:30 a.m., U.S. standard time (or 9:30 a.m., local daylight saving time, if that time is observed), unless otherwise specified.

APPLICATIONS ASSIGNED FOR ORAL HEARING OR PREHEARING CONFERENCE

MOTOR CARRIERS OF PROPERTY

SPECIAL RULES

The applications immediately following are assigned for hearing at the time and place designated in the notice of filing as here published in each proceeding. All of the proceedings are subject to the special rules of procedure for hearing outlined below.

SPECIAL RULES OF PROCEDURE FOR HEARING

(1) All of the testimony to be adduced by applicant's company witness shall be in the form of written statements which shall be submitted at the hearing at the time and place indicated.

(2) All of the written statements by applicant's company witnesses shall be offered in evidence at the hearing in the same manner as any other type of evidence. The witnesses submitting the written statements shall be made available at the hearing for cross-examination, if such becomes necessary.

(3) The written statements by applicant's company witnesses, if received in evidence, will be accepted as exhibits. To the extent the written statements refer to attached documents such as copies of operating authority, etc., they should be referred to in written statements as numbered appendices thereto.

(4) The admissibility of the evidence contained in the written statements and the appendices thereto, will at the time of offer, be subject to the same rules as if the evidence were produced in the usual manner.

(5) Supplemental testimony by a witness to correct errors or to supply inadvertent omissions in his written statement is permissible.

No. MC 25798 (Sub-No. 94), filed July 23, 1963. Applicant: CLAY HYDER TRUCKING LINES, INC., 301 Highway North, Dade City, Fla. Applicant's at-

torney: Thomas F. Kilroy, 1815 H Street NW., Washington 6, D.C. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Meats, meat products and meat byproducts*, from points in Saunders County, Nebr., to points in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee.

HEARING: September 4, 1963, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner Edith H. Cockrill.

No. MC 114569 (Sub-No. 61), filed July 14, 1963. Applicant: SHAFFER TRUCKING, INC., Elizabethville, Pa. 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 I, in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from points in Saunders County, Nebr., to points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Vermont, New Hampshire, Maine, and Rhode Island.

HEARING: September 4, 1963, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner Edith H. Cockrill.

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 63-8029; Filed, July 30, 1963; 8:51 a.m.]

[Notice No. 549]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

JULY 26, 1963.

The following publications are governed by the Interstate Commerce Commission's general rules of practice including special rules (49 CFR 1.241) governing notice of filing of applications by motor carriers of property or passengers or brokers under sections 206, 209, and 211 of the Interstate Commerce Act and certain other proceedings with respect thereto.

All hearings and prehearing conferences will be called at 9:30 a.m., U.S. standard time (or 9:30 a.m., local daylight saving time, if that time is observed), unless otherwise specified.

APPLICATIONS ASSIGNED FOR ORAL HEARING OR PREHEARING CONFERENCE

MOTOR CARRIERS OF PROPERTY

No. MC 2934 (Sub-No. 13), filed March 24, 1963. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 863 Massachusetts Avenue, Indianapolis, Ind. Applicant's attorney: James L. Beattey, Suite 1019-1029, 130 East Washington Street, Indianapolis 4, Ind. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture*, uncrated and *store, kitchen, hospital and office fixtures* and *equipment*, uncrated, between points in California, on the one hand, and, on the other, points in the United States.

HEARING: September 9, 1963, at the New Mint Building, 133 Hermann Street, San Francisco, Calif., before Examiner James I. Carr.

No. MC 13522 (Sub-No. 11), filed April 10, 1963. Applicant: PAXTON TRUCKING COMPANY, a corporation, 1500 South Greenwood Avenue, Montebello, Calif. Applicant's attorney: Arthur H. Glanz, 639 South Spring Street, Los Angeles 14, Calif. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: (1) *Iron and steel and iron or steel articles including tinplate, and products or products of iron and steel mills, steel processing and steel fabricating plants*, (2) *aluminum, brass, bronze, copper, lead, magnesium, tin, zinc and other non-ferrous metals, and articles manufactured therefrom* (except household appliances and housewares, and except articles manufactured from such metals when consigned to a retail business establishment), (3) *clay and clay products including calcined magnesite, crude or roasted dolomite and other commodities normally manufactured and shipped in straight or mixed shipments by clay products mills or manufacturing plants*, (4) *heavy machinery and machinery parts, and heavy electrical equipment or appliances and supplies and parts thereof*, (5) *oil, water or gas well outfits and supplies, and other articles, as described in Item 365 on Third Revised Page 38-A of Minimum Rate Tariff No. 2*, (6) *machinery, equipment, materials and supplies used in the drilling, maintenance or operation of wells for the production of water, petroleum or natural gas*, (7) *construction, road building and paving equipment, materials and supplies used, or which may be used, in the construction, erection, maintenance, repair or dismantling of bridges, roads or highways, power or communication transmission lines or production projects, sewer or sewerage dispostal projects, aqueducts, pipelines, oil refining or processing plants, mines, iron or steel mills or processing plants, military or demolition projects, fabricated steel or metal building and other structures*,

(8) *such commodities as require special equipment or handling by reason of their unusual size, weight or shape, and, in connection therewith, parts, equipment, materials and supplies not requiring special equipment or handling that are appurtenant to or a necessary part of the same project or transaction*, (9) *electrical transmission or communication cable including clamps, joints, racks, hooks, terminals and other appurtenant articles used in connection therewith*, (10) *junk, scrap or waste material having value only for remelting or reprocessing*, (11) *firefighting equipment, materials and supplies*, and (12) *empty pallets or empty containers returning or to be returned*, between points on or within 50 miles airline distance laterally of the following highways: (a) U.S. Highways 101, 101 Alternate and 101 Bypass between the United States-Mexico International Boundary line in California and the California-Oregon State line, (b) U.S. Highways 99, 99E, and 99W between the United States-Mexico international boundary line and the California-Oregon State line, (c) U.S. Highway 395 between San Diego, Calif., and the Nevada-California State line near Topaz, Calif., and between the California-Nevada State line near Peavine, Calif., and the California-Oregon State line, (d) U.S. Highways 40 and 40 Alternate between San Francisco, Calif., and the California-Nevada State line, (e) U.S. Highway 50 between San Francisco and the California-Nevada State line, (f) U.S. Highway 60 between Los Angeles, Calif., and the California-Arizona State line, (g) U.S. Highway 80 between San Diego and the California-Arizona State line, (h) U.S. Highway 66 between Los Angeles and the California-Arizona State line, (i) U.S. Highway 91 between Barstow, Calif., and the California-Nevada State line, (j) U.S. Highway 97 between junction U.S. Highways 97 and 99 and the California-Oregon State line, (k) U.S. Highway 95 between junction U.S. Highways 95 and 60 and the California-Nevada State line, (l) U.S. Highway 299 between junction U.S. Highways 299 and 101 and junction U.S. Highways 299 and 395, (m) U.S. Highway 399 between Ventura, Calif., and junction U.S. Highways 399 and 99, (n) U.S. Highway 466 between Paso Robles, Calif., and the California-Nevada State line, (o) California Highway 20 between junction California Highway 20 and U.S. Highway 101 and junction California Highway 20 and U.S. Highway 40, (p) California Highway 36 between junction California Highway 36 and U.S. Highway 99 and junction California Highway 36 and U.S. Highway 395, (q) California Highway 139 between junction California Highway 139 and U.S. Highway 299 and the California-Oregon State line, (r) California Highway 33 between Wheeler Ridge and Tracy, Calif., and (s) California Highway 127 and California Highway 190 between junction California Highway 127 and U.S. Highway 466 near Baker, Calif., and junction California Highway 190 and U.S. Highway 395. Restriction: Except for deliveries to and from job sites such as construction projects, oil, gas or water wells, or mines, oil fields, warehouses or field storage yards, no freight shall be transported in excess of ten miles on either side of the highways designated in (a) through (s) above.

NOTE: Applicant states it proposes to conduct its operations along any street, road, highway or combination of such thoroughfares necessary or convenient to the rendering of its service, including, but not limited to, the highways set forth in (a) through (s) above.

HEARING: October 21, 1963, at the Federal Building, Los Angeles, Calif., before Examiner F. Roy Linn.

No. MC 14295 (Sub-No. 5) (CORRECTION), filed March 22, 1963, published FEDERAL REGISTER issue July 10, 1963, amended July 15, 1963, and republished as amended this issue. Applicant: D.G. & U. TRUCK LINES, INC., 701 Hiddeson Avenue, Greenville, Ohio. Applicant's attorney: Noel F. George, 44 East Broad Street, Columbus 15, Ohio. Au-

thority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Cincinnati, Ohio, and Oxford, Ohio, from Cincinnati, north over U.S. Highway 27, to Oxford, and return over the same route, serving the intermediate points of Bevis, Dunlap, Ross, Millville, and McGonigle, Ohio, (2) between the junction of U.S. Highway 27 and Ohio Highway 128, and the Atomic Energy Commission plant site, from the junction of U.S. Highway 27 and Ohio Highway 128 southwest over Ohio Highway 128, to the junction of Ohio Highway 128 and Willey Road, thence west over Willey Road, to the entrance of the Atomic Energy Commission's plant site, and return over the same route, serving no intermediate points, and (3) between Oxford, Ohio, and West Manchester, Ohio, from Oxford east over Ohio Highway 73 to the junction of Ohio Highway 73 and U.S. Highway 127, thence north over U.S. Highway 127, to West Manchester, and return over the same route, serving no intermediate points.

NOTE: The purpose of this republication is to correctly show the desired authority as set forth in (1) and (3) above, in lieu of that as previously published.

HEARING: Remains as assigned, September 20, 1963, at the New Post Office Building, Columbus, Ohio, before Joint Board No. 37, or, if the Joint Board waives its right to participate, before Examiner Lacy W. Hinely.

No. MC 52751 (Sub-No. 33) (AMENDMENT), filed April 29, 1963, published in FEDERAL REGISTER issue July 3, 1963, amended July 23, 1963, and republished as amended this issue. Applicant: ACE LINES, INC., 4143 East 43d Street, Des Moines 17, Iowa. Applicant's representative: William A. Landau, 1307 East Walnut Street, Des Moines 16, Iowa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement pipe* and *pipe couplings*, containing asbestos fiber, and *tools and materials in connection therewith*, from St. Louis, Mo., to points in Illinois, Iowa, Nebraska, Minnesota, North Dakota, and South Dakota.

NOTE: The purpose of this republication is to reflect the enlarged commodity description. Common control may be involved.

HEARING: Remains as assigned September 16, 1963, in Room 401, Old Federal Office Building, Fifth and Court Avenues, Des Moines, Iowa, before Examiner Charles J. Murphy.

No. MC 61396 (Sub-No. 94), filed June 5, 1963. Applicant: HERMAN BROS. INC., 2501 North 11th, Omaha, Nebr. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer, fertilizer compounds and urea*, (1) from points in Nebraska (except Omaha) to points in Iowa, Minnesota, and South Dakota, (2) from points in Nebraska to points in North Dakota, Montana, Wyoming, Colorado, Kansas, Missouri, Illinois, and Nebraska, (3) from Yankton, S. Dak., to points in Nebraska, (4) from points in Iowa to points in Nebraska and (5) *returned or rejected shipments*, of (1), (2), (3), and (4), above on return.

HEARING: October 16, 1963, at the Hotel Sheraton Fontenelle, Omaha, Nebr., before Examiner Harry M. Shooman.

No. MC 95540 (Sub-No. 528), (AMENDMENT), filed May 26, 1963, published FEDERAL REGISTER issue July 3, 1963, amended July 21, 1963, and republished as amended this issue. Applicant: WATKINS MOTOR LINES, INC., Albany Highway, Thomasville, Ga. Applicant's attorney: Joseph H. Blackshear, Gainesville, Ga. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Chickasha, Okla., to points in Alabama, Georgia, Florida, Mississippi, North Carolina, Tennessee, South Carolina, Virginia, and New Orleans and Metairie, La.

NOTE: Common control may be involved. The purpose of this republication is to add the State of South Carolina to the destination territory.

HEARING: Remains as assigned September 4, 1963, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner James Anton.

No. MC 103880 (Sub-No. 283) (AMENDMENT), filed February 17, 1963, published in FEDERAL REGISTER issue of July 10, 1963, amended July 17, 1963, and republished as amended this issue. Applicant: PRODUCERS TRANSPORT, INC., 224 Buffalo Street, New Buffalo, Mich. Applicant's attorney: Carl L. Steiner, 39 South La Salle Street, Chicago 3, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals, liquid or dry, fertilizer and fertilizer ingredients, including, but not limited to, anhydrous ammonia and nitrogen fertilizer solutions*, in bulk, in tank and hopper-type vehicles, from Terre Haute, Ind., and points within ten (10) miles thereof, to points in Illinois, Indiana, Ohio, Kentucky, Missouri, Iowa, Wisconsin, and Michigan.

NOTE: The purpose of this republication is to include chemicals, liquid or dry, in the commodity description, to include transportation in hopper-type vehicles, and to show applicant's attorney.

HEARING: Remains as assigned September 26, 1963, at the Midland Hotel, Chicago, Ill., before Examiner Lacy W. Hinely.

No. MC 105461 (Sub-No. 51) (CORRECTION), filed June 7, 1963, published FEDERAL REGISTER issue July 10, 1963, and republished as corrected this issue. Applicant: HERR'S MOTOR EXPRESS, INC., Quarryville, Pa. Applicant's representative: Bernard N. Gingerich, Quarryville, Pa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum furniture, wooden furniture, wooden toys*, and *wooden gates, ironing tables* and *clothes dryers*, from Wellsville and Whitesville, N.Y., to points in Maine, New Hampshire, and Vermont.

NOTE: The purpose of this republication is to correct the spelling of "Whitesville," N.Y. an origin point.

HEARING: Remains as assigned September 12, 1963, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner William E. Messer.

No. MC 108375 (Sub-No. 20) (AMENDMENT), filed January 31, 1963, published FEDERAL REGISTER issue March 13, 1963, amended May 13, 1963 and republished as amended this issue. Applicant: LEROY L. WADE & SON, INC. 1615 Izard Street, Omaha, Nebr. Applicant's attorney: Donald L. Stern, 924 City National Bank Building, Omaha 2, Nebr. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *New automobiles, buses, trucks, chassis and parts and accessories therefor*, when moving with said units, in secondary movements, in truckaway service, from Des Moines, Iowa, to points in Nebraska, (2) *automobiles and trucks*, in truckaway service, in secondary movements, from Des Moines, Iowa, to points in North Dakota, Kansas and points in South Dakota west of U.S. Highway 83, and (3) *tractors* (except truck tractors) with or without attachments, in truckaway service, in secondary movements, in equipment especially designed for the transportation of automobiles, from Omaha, Nebr., and Council Bluffs and Des Moines, Iowa, to points in North Dakota and Kansas (except points in Doniphan, Brown, Nemaha, Marshall, Washington, Republic, Smith, Jewell, Norton, Phillips, Decatur, Rawlings, and Cheyenne Counties, Kans.).

NOTE: Applicant states that the proposed operations in (1) and (2) above will be restricted to traffic having an immediately prior movement by rail from plant sites of the Ford Motor Company and the Studebaker-Packard Corporation, and the proposed operation in (3) above will be restricted to traffic having an immediately prior movement by rail and moving in mixed loads with automobiles, trucks, or both. The purpose of this republication is to add (2) and (3) above.

HEARING: October 8, 1963, in Room 401, Old Federal Office Building, Fifth and Court Avenues, Des Moines, Iowa, before Examiner Harry M. Shooman.

No. MC 112184 (Sub-No. 14), filed March 24, 1963. Applicant: MANFREDI MOTOR TRANSIT COMPANY, Newbury, Ohio. Applicant's attorney: John P. McMahon, 44 East Broad Street, Columbus 15, Ohio. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Hydrofluoric acid*, in bulk, in shipper-owned tank vehicles, from Cleveland, Ohio, to points in Illinois, Indiana, Michigan, Pennsylvania, New York, New Jersey, Tennessee, and North Carolina, and (2) *empty shipper-owned tank vehicles and returned and rejected shipments of hydrofluoric acid*, in shipper-owned tank vehicles, from points in Illinois, Indiana, Michigan, Pennsylvania, New York, New Jersey, Tennessee, and North Carolina to Cleveland.

NOTE: Applicant states the transportation specified above, will be performed under a

continuing contract with Harshaw Chemical Corporation.

HEARING: September 25, 1963, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner Louis G. LaVecchia.

No. MC 113349 (Sub-No. 3) (CORRECTION), filed May 17, 1963, published in FEDERAL REGISTER issue of June 19, 1963, republished this issue as corrected. Applicant: IURATO TRUCKING CO., a corporation, Rifle Camp Road, West Paterson, N.J. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City 6, N.J. This republication is for the purpose of showing that in part (3) of the notice the point of origin should be *Natrona*, Pa., in lieu of Nitrona, as previously published.

HEARING: Remains as assigned August 1, 1963, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner Charles B. Heinemann.

No. MC 113855 (Sub-No. 81) (REPUBLICATION), filed May 13, 1963, published in FEDERAL REGISTER issue of July 10, 1963, republished this issue to show advanced date for hearing. Applicant: INTERNATIONAL TRANSPORT, INC., Highway 52, South, Rochester, Minn. Applicant's attorney: Franklin J. Van Osdel, First National Bank Building, Fargo, N. Dak. The previous publication indicated a hearing date of September 6, 1963. This republication is merely to give notice of the change in hearing information as set forth below.

HEARING: September 3, 1963, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner Isadore Friedson.

No. MC 116763 (Sub-No. 30) (AMENDMENT), filed April 2, 1963, published in the FEDERAL REGISTER issue of July 3, 1963, amended July 21, 1963, and republished as amended this issue. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned fruit and canned fruit juices*, not frozen, from points in Florida, to points in Arkansas, Tennessee, points in Louisiana on and north of U.S. Highway 80, points in Mississippi on and north of U.S. Highway 80, Tyler, Tex., and points in Texas on and north of a line beginning at the Louisiana-Texas State line, and extending along U.S. Highway 80 to Fort Worth, thence north along Interstate Highway 35W to Denton, thence north along Interstate Highway 35 to the Texas-Oklahoma State line.

NOTE: The purpose of this republication is to modify the territorial description.

HEARING: Remains as assigned September 19, 1963, at the U.S. Court Rooms, Tampa, Fla., before Examiner Lyle C. Farmer.

No. MC 118126 (AMENDMENT), filed December 8, 1958, published FEDERAL REGISTER issue of April 3, 1959, and republished, this issue. Applicant: BEN KRAMER, doing business as KRAMER PRODUCE, Mason City, Iowa. Applicant's representative: William A. Landau, 1307 East Walnut Street, Des Moines 16, Iowa. Grandfather authority sought under section 7 of the Transportation Act of 1958 to continue to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen vegetables, wool waste* (carded, spun, woven, or knitted), and *wool tops and noils*, from points in Massachusetts, Minnesota, New Jersey, New York, Pennsylvania, and Rhode Island to Lacon, Ill., Macon and Moberly, Mo., and points in Wisconsin.

HEARING: October 7, 1963, in Room 401, Old Federal Office Building, Fifth and Court Avenues, Des Moines, Iowa, before Examiner Harry M. Shooman.

No. MC 118288 (Sub-No. 4), filed June 10, 1963. Applicant: STEPHEN F. FROST, 14750 Boyle Avenue, Fontana, Calif. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh fruits, fresh vegetables* and *fresh berries* (when moving in the same vehicle with bananas), from points in California to points in Montana, and *grain and honey*, on return.

HEARING: September 26, 1963, at the Federal Building, Los Angeles, Calif., before Examiner James I. Carr.

No. MC 125384 (AMENDMENT), filed May 22, 1963, published in FEDERAL REGISTER issue of July 3, 1963, republished this issue as amended. Applicant: J. L. WALDROP AND DONALD T. HOLTON, doing business as WALDROP AND HOLTON, 632 First Street, Winter Haven, Fla. Applicant's attorney: Sol H. Proctor, 1730 Lynch Building, Jacksonville 2, Fla. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Diced fruit peel*, from points in Polk County, Fla., to points in Alabama, Delaware, District of Columbia, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Michigan, Mississippi, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, and West Virginia, and *exempt commodities*, on return.

NOTE: The purpose of this republication is to specify that authority is sought as a *contract carrier* rather than *common* as previously published.

HEARING: Remains as assigned September 18, 1963, at the U.S. Court Rooms, Tampa, Fla., before Examiner Lyle C. Farmer.

No. MC 125484, filed June 21, 1963. Applicant: RAYMOND W. BELL, doing business as BELL'S TOWING SERVICE, Third Street and Highway 80, Winterhaven, Calif. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked* and *disabled vehicles* and *trailers*, between points in Imperial County, Calif., and points in Yuma County, Ariz.

HEARING: September 26, 1963, at the Arizona Corporation Commission, Phoenix, Ariz., before Joint Board No. 47, or, if the Joint Board waives its right to participate, before Examiner James I. Carr.

APPLICATIONS IN WHICH HANDLING WITHOUT ORAL HEARING HAS BEEN ELECTED

MOTOR CARRIERS OF PROPERTY

No. MC 2633 (Sub-No. 50), filed July 15, 1963. Applicant: WILLIAM F. CROSSETT, INC., Post Office Box 899, Warren, Pa. Applicant's attorney: Harold G. Hernly, 711 14th Street NW., Washington 5, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petrolatum* (a petroleum product), in bulk, in tank vehicles, from Model City and Niagara Falls, N.Y. to Freedom, Pa.

No. MC 52310 (Sub-No. 23), filed July 15, 1963. Applicant: BRUCE MOTOR FREIGHT, INC., 2011 Easton Boulevard, Des Moines, Iowa. Applicant's attorney: Homer E. Bradshaw, Suite 510, Central National Building, Des Moines 9, Iowa. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, bullion, livestock, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between points in the Minneapolis and St. Paul, Minn., Commercial Zone and Mount Pleasant, Iowa, over U.S. Highway 218, serving no intermediate points, as an alternate route for operating convenience only, in connection with applicant's presently authorized regular route operations between points in the Minneapolis-St. Paul Commercial Zone and St. Louis, Mo.

No. MC 111159 (Sub-No. 152), filed July 3, 1963. Applicant: MILLER TRANSPORTERS, LTD., Post Office Box 1123, Jackson, Miss. Applicant's attorney: Harold D. Miller, Jr., Suite 700, Petroleum Building, Post Office Box 1250, Jackson 5, Miss. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lime and lime products*, in bulk, in tank or hopper-type vehicles, from Jackson, Miss., and points within 15 miles thereof, to points in Louisiana and Arkansas, and (2) *lime and lime products*, in bulk, in tank or hopper-type vehicles, between points in Mississippi.

NOTE: Common control may be involved.

No. MC 111812 (Sub-No. 213), filed July 16, 1963. Applicant: MIDWEST COAST TRANSPORT, INC., Post Office Box 747, Wilson Terminal Building, Sioux Falls, S. Dak. Applicant's attorney: William J. Augello, Jr., 2 West 45th Street, New York 36, N.Y. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen berries and frozen vegetables*, from Easton, Maine, to points in New York, New Jersey, Pennsylvania, Delaware, Maryland, West Virginia, Ohio, Indiana, Kentucky, Missouri, Illinois, Michigan, Wisconsin, Minnesota, Iowa, and the District of Columbia.

NOTE: Applicant states the purpose of this application is to amend the commodity description in applicant's Sub 126 certificate to include new commodities to be shipped by the supporting shipper.

No. MC 112497 (Sub-No. 208), filed July 9, 1963. Applicant: HEARIN TANK LINES, INC., 6440 Rawlins Street, Baton Rouge, La. Applicant's attorney: E. Stephen Heisley, Transportation Building, Washington 6, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Muriatic acid*, from Anniston, Ala., to points in Florida.

No. MC 113388 (Sub-No. 53), filed July 16, 1963. Applicant: LESTER C. NEWTON TRUCKING CO., a corporation, Post Office Box 265, Bridgeville, Del. Applicant's attorney: William J. Augello, Jr., 2 West 45th Street, New York 36, N.Y. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen berries and vegetables*, from Easton, Maine, to points in Connecticut, Delaware, Florida, Georgia, Maryland, Massachusetts, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Virginia, and the District of Columbia.

NOTE: Applicant states the purpose of this application is to amend the commodity description in its sub 34 certificate to include new commodities to be shipped by the supporting shipper.

No. MC 114194 (Sub-No. 47), filed July 12, 1963. Applicant: KREIDER TRUCK SERVICE, INC., 8003 Collinsville Road, East St. Louis, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Honey*, in bulk, from points in Florida to points in Missouri and Illinois, and *rejected shipments thereof*, on return.

No. MC 117395 (Sub-No. 6), filed July 16, 1963. Applicant: JAMES B. BRASWELL, SR., doing business as, SOUTHERN CEMENT TRANSPORT, 319 Louisiana Bank Building, Shreveport, La. Applicant's attorney: Robert L. Garrett, Slattery Building, Shreveport, La. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Mineral filler*, in bulk, from the plant site of Winn Rock, Inc. located four (4) or five (5) miles west of Winnfield, La., to Texarkana, Ark-Tex.

No. MC 117883 (Sub-No. 20) (CLARIFICATION), filed June 24, 1963, published FEDERAL REGISTER issue July 10, 1963, corrected July 12, 1963, and republished as clarified this issue. Applicant: SUBLER TRANSFER, INC., East Maine Street, Versailles, Ohio. Applicant's attorney: Taylor C. Burneson, 9430 LeVeque-Lincoln Tower, 50 West Broad Street, Columbus 13, Ohio.

NOTE: The purpose of this republication regarding the proposed operations as shown in previous publication is to show the applicant proposes "to use Versailles, Ohio, solely for the purpose of effecting the interchange of traffic which, pursuant to such operating rights, may be interchanged at Troy, Ohio, or Covington, Ohio".

No. MC 125485, filed June 21, 1963. Applicant: HAROLD VOGT, 1240 East 90th Avenue, Thornton, Colo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment), between Earp, Calif., and Moonlight Post, Navajo County, Ariz., and points within a 2 mile radius of Moonlight Post.

No. MC 125518, filed July 8, 1963. Applicant: CLETUS RUHLMAN, doing business as C. RUHLMAN TRUCKING COMPANY, 960 Millville Avenue, Hamilton, Ohio. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Amlite and slag, used in the manufacture of concrete blocks*, usually transported in dump trucks and unloaded by dumping, from American Materials Corp. plant sites located near Middletown and New Miami (Butler County), Ohio, to points in Wayne County, Ind.

No. MC 125528, filed July 11, 1963. Applicant: RICHARD A. STUBBEN, Creighton, Nebr. Applicant's attorney: Frank Roubicek, American National Bank Building, Creighton, Nebr. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Livestock feeds and livestock feeding ingredients*, from Sioux City, Iowa, to Creighton, Nebr.

NOTE: Applicant states he proposes to transport exempt livestock on return.

MOTOR CARRIERS OF PASSENGERS

No. MC 41257 (Sub-No. 10), filed June 10, 1963. Applicant: NORTH STAR LINE, INC., 341 Ellsworth Ave. SW., Grand Rapids, Mich. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage, express, mail and newspapers*, in the same vehicle with passengers, between points in Michigan as follows: (1) From Lansing over U.S. Highway 27 to junction U.S. Highway 10, thence over U.S. Highway 10 to junction Michigan Highway 115, thence over Michigan Highway 115 to junction U.S. Highway 131, thence over U.S. Highway 131 to Cadillac, and return over the same route, serving all intermediate points. (2) From junction U.S. Highway 27 and U.S. Business Route 27 over U.S. Business Route 27 to Ithaca, and return over the same route, serving all intermediate points. (3) From junction U.S. Highway 27 and U.S. Business Route 27 over U.S. Business Route 27 to Alma, and return over the same route, serving all intermediate points. (4) From junction U.S. Highway 27 and U.S. Business Route 27 over U.S. Business Route 27 to St. Louis, thence over county road to Alma, thence over U.S. Business Route 27 to junction U.S. Highway 27, and return over the same route, serving all intermediate points. (5) From junction U.S. Highway 27 and U.S. Business Route 27 over U.S. Business Route 27 to Mt. Pleasant, and return over the same route, serving all intermediate points.

No. MC 116490 (Sub-No. 1), filed June 12, 1963. Applicant: YELLOW CAB CO. INC., OF EL PASO, TEX., 325 South Santa Fe, El Paso, Tex. Applicant's attorney: Tad R. Smith, First National Building., El Paso 1, Tex. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage*, in charter and special operations, on round trip sightseeing or pleasure tours, beginning and ending at El Paso, Tex., and extending to White Sands National Monument, N. Mex., (1) from El Paso over U.S. Highway 54 to junction U.S. Highway 70, thence over U.S. Highway 70 to junction unnumbered highway, thence over unnumbered highway to White Sands National Monument; (2) from El Paso over U.S. Highway 54 to junction U.S. Highway 70, thence over U.S. Highway 70 to Alamogordo, N. Mex., thence return over U.S. Highway 70 to junction unnumbered highway, thence over unnumbered highway to White Sands National Monument; (3) from El Paso over U.S. Highway 54 to junction U.S. Highway 70, thence over U.S. Highway 70 to Alamogordo, thence over U.S. Highway 70 to junction New Mexico Highway 83, thence over New Mexico Highway 83 to Cloudcroft, N. Mex., thence return over the same route to Alamogordo, thence over U.S. Highway 70 to junction unnumbered highway, thence over unnumbered highway to White Sands National Monument; (4) from El Paso over Interstate Highway 10 to Las Cruces, N. Mex., thence over U.S. Highway 70 to junction unnumbered highway, thence over unnumbered highway to White Sands National Monument; (5) from El Paso over Alternate U.S. Highways 80 and 85 to Las Cruces, thence over U.S. Highway 70 to junction unnumbered highway, thence over unnumbered highway to White Sands National Monument; (6) from El Paso over Farm-to-Market Road 273 to La Union, N. Mex., thence over New Mexico Highway 28 to Las Cruces, thence over U.S. Highway 70 to junction unnumbered highway, thence over unnumbered highway to White Sands National Monument; (7) and return over any one of the routes specified above, serving no intermediate points.

NOTICE OF FILING OF PETITIONS

No. MC 118851 (PETITION TO REOPEN GRANDFATHER APPLICATION UNDER THE TRANSPORTATION ACT OF 1958 IN MC 118851), dated July 11, 1963. Petitioner: JOSEPH CHOMKO AND MARGARET CHOMKO, a partnership, doing business as CHOMKO BANANA TRANSFER, 1007 Baker Street, Taylor, Pa. Petitioner's attorney: Harvey Gelb, Scranton Life Building, Scranton, Pa. Pursuant to the grandfather clause, section 7 (b) and (c) of the Transportation Act of 1958, petitioner was granted a certificate to transport bananas as follows: From New York, N.Y., Weehawken, N.J., Philadelphia, Pa., and Baltimore, Md., to points in New York in and west of Cayuga, Onondaga, Cortland and Broome Counties, N.Y., Oneonta, N.Y., and points in Pennsylvania on and east of a line beginning at the New York-Pennsylvania State line and extending along U.S. Highway 15 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction U.S. Highway 111, and thence along U.S. Highway 111 to the Pennsylvania-Maryland State line, with no transportation for compensation on return except as otherwise authorized. Because the unloading points in the New

York Harbor area are now subject to continual change, petitioner finds it necessary to reopen its grandfather application in order to include said points in its authority. By the instant petition, petitioner requests that its grandfather application be reopened and that it be granted authority to carry bananas over irregular routes as follows: From port facilities in New York and in New Jersey within the New York, N.Y., harbor area as defined by the Commission in Ex Parte No. 140, *Determination of the Limits of New York Harbor and Harbors Contiguous Thereto,* Philadelphia, Pa., and Baltimore, Md., to points in New York in and west of Cayuga, Onondaga, Cortland and Broome Counties, N.Y., Oneonta, N.Y., and points in Pennsylvania on and east of a line beginning at the New York-Pennsylvania State line and extending along U.S. Highway 15 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction U.S. Highway 111, thence along U.S. Highway 111 to the Pennsylvania-Maryland State line, with no transportation for compensation on return except as otherwise authorized. Any person or persons desiring to participate in this proceeding, may, within 30 days from the date of this publication in the FEDERAL REGISTER, file an appropriate pleading.

NOTICE OF FILING OF PETITION SEEKING MODIFICATION OF COMMODITY DESCRIPTION IN PERTINENT ACTIVE OPERATING AUTHORITY HELD BY PETITIONER

In a report on reconsideration, decided October 16, 1961, and served November 9, 1961, in No. MC 109637 (Sub-No. 47), *Southern Tank Lines, Inc., Extension—St. Bernard, Ohio,* the Commission concluded generally that the commodity descriptions utilized in granting operating authority to motor carriers of liquid chemicals, including those prescribed in *Descriptions in Motor Carrier Certificates,* 61 M.C.C., 209, 766, and *Maxwell Co., Extension—Adyston,* 63 M.C.C., 677, should be revised for use in making future grants, and as a basis for modifying outstanding certificates and permits upon application of the holders thereof in accordance with approved procedure. The Commission found with respect to the commodity descriptions at issue, that the generic heading "liquid chemicals, in bulk, in tank vehicles," is a proper and reasonable commodity description for use in motor carrier operating authorities issued by the Commission; and that where such commodity description described is utilized, the following will be reasonable and proper definition thereof for determining the commodities which are embraced in such description:

Liquid chemicals, as used in the foregoing commodity description are those substances or materials resulting from a chemical or physical change induced by processes employed in the chemical industry, including uniting, mixing, blending, and compounding.

The subject report provided: "All motor carriers holding certificates or permits authorizing the transportation in bulk, in tank vehicles, of 'liquid chemicals as defined in the *Maxwell* case', of 'acids and chemicals as described in the *Descriptions* case', or of liquid chemicals under any other commodity description, are hereby notified that petitions will be entertained requesting the modification of such authorities to reflect the revised commodity descriptions promulgated herein. Such petitions should refer to the specific authority which the carrier desires to have modified, and should contain a certification that there is, in fact, traffic available for the transportation from and to the points it is authorized to serve, and that its operations are not dormant. The petitions should be filed in the proceedings in which the authority held was granted, these petitions will be published in the FEDERAL REGISTER, and if no objections are filed thereto, they will be disposed of without extended further proceedings. If protests are received, a hearing may be required for their disposition; but in such event, every effort will be made to conclude the proceedings promptly." The following petitions seeking modification of pertinent operating authorities have been received:

No. MC 112497 (Sub-Nos. 98, 119, 120, and 127), filed July 12, 1963. Petitioner: HEARIN TANK LINES, INC., Baton Rouge, La. Petitioner's attorneys: Harry C. Ames, Jr., and E. Stephen Heisley, 529 Transportation Building, Washington 6, D.C. Any person or persons desiring to participate in this proceeding may file replies to said petition (orginal and fourteen (14) copies each) within 30 days from the date of this publication in the FEDERAL REGISTER. In the event it is deemed necessary or desirable, informal conference between our staff members and the tank truck carriers, and any other persons who may have an interest in the matter, can be arranged for the purpose of implementing the matter. Persons responding to this publication should specifically advise whether an informal conference is desired.

APPLICATIONS FOR CERTIFICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 1.240 TO THE EXTENT APPLICABLE

No. MC 85465 (Sub-No. 7), filed July 19, 1963. Applicant: WEST NEBRASKA EXPRESS, INC., Post Office Box 748, Scottsbluff, Nebr. Applicant's attorney: John H. Lewis, The 1650 Grant Street Building, Denver 3, Colo. Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, livestock, household goods as defined by the Commission, liquid commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading) between Denver, Colo. and the junction U.S. Highways 85–87, approximately eight (8) miles north of Cheyenne, Wyo.; from Denver over Interstate Highway 25 and U.S. Highway 87 to junction 85–87, approximately eight (8) miles north of Cheyenne, and return over the same route, serving no intermediate points.

NOTE: Common control may be involved. This application is to be handled concurrently with MC–F–8509, published this issue.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC–F–8508. Authority sought for purchase by LAKE SHORE DELIVERY, INC., 219 Brigham Road, Dunkirk, N.Y., of the operating rights of DURST DELIVERY, INC., Post Office Box 391, Jamestown, N.Y., and for acquisition by JOHN W. COOGAN, 417 Temple Street, Dunkirk, N.Y., of control of such rights through the purchase. Applicants' attorney: Kenneth T. Johnson, Bank of Jamestown Building, Jamestown, N.Y. Operating rights sought to be transferred: Operations under the second proviso of section 206(a)(1) of the Interstate Commerce Act, in the State of Pennsylvania, covering the transportation of *general commodities,* between points in the city of Bradford, McKean County, Pa., between the city of Bradford, McKean County, Pa., to other points in the county of McKean, between points in the county of McKean to points in the counties of Cameron, Potter and Elk (excluding oil drilling equipment and supplies and gas drilling equipment and supplies), the above is restricted so that property weighing over ten (10) tons is excluded as is property transported on low-bed trucks or trailers and truck or trailer winches; between the city of Bradford, McKean County, to points in the counties of McKean, Cameron, Potter, and Elk in interchange from other carriers, the above rights granted are restricted to prohibit the transportation of property from the American Viscose Corporation in the Borough of Meadville, either directly or by interchange with other carriers. Vendee is authorized to operate as a *common carrier* in New York, and Pennsylvania. Application has been filed for temporary authority under section 210a(b).

NOTE: No. MC–84688 Sub-2 is a matter directly related.

No. MC–F–8509. Authority sought for purchase by WEST NEBRASKA EXPRESS, INC., Box 748, Scottsbluff, Nebr., of a portion of the operating rights of CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, Calif., and for acquisition by CLARK N. WILLIAMS and CHESTER H. FLIESBACH, both of Scottsbluff, Nebr., of control of such rights through the purchase. Applicants' attorneys: Stockton, Linville, Lewis and Mitchell, The 1650 Grant Street Building, Denver 3, Colo. Operating rights sought to be transferred: *General commodities,* except those of unusual value, livestock, household goods as de-

fined by the Commission, liquid commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, as a *common carrier* over regular routes, between the junction of U.S. Highway 85–87, approximately eight (8) miles north of Cheyenne, Wyo, and Gering, Nebr., serving the intermediate and off-route points of Meriden, Hawk Springs and Torrington, Wyo., Henry, Morrill, Mitchell, and Scottsbluff, Nebr., and those within 5 miles of Scottsbluff, from the Junction of U.S. Highway 85–87 over U.S. Highway 85 to Torrington, Wyo., thence over U.S. Highway 26 to Scottsbluff, Nebr., and thence over Nebraska Highway 29 to Gering. Vendee is authorized to operate as a *common carrier* in Nebraska, Colorado and Wyoming. Application has not been filed for temporary authority under section 210a(b).

NOTE: No. MC–85465 Sub-7 to be handled concurrently.

No. MC–F–8510. Authority sought for control by BLODGETT UNCRATED FURNITURE SERVICE, INC., 845 Chestnut SW., Grand Rapids, Mich., of NORTHROP & BOEHLER, INC., 11 Anderson Avenue, Falconer, N.Y., and for acquisition by FREDERICK W. WIERSUM, 1062 Plymouth Road SE., Grand Rapids, Mich., and ROBERT K. WIERSUM, 2632 32d Street SE., Grand Rapids, Mich., of control of NORTHROP & BOEHLER, INC., through the acquisition by BLODGETT UNCRATED FURNITURE SERVICE, INC. Applicants' attorney: Albert J. Tener, Bank of Jamestown Building, Jamestown, N.Y. Operating rights sought to be controlled: *New metal or wooden furniture,* uncrated, and *related accessories,* as a *common carrier* over irregular routes, from Jamestown, Falconer, Brocton, Mayville, Frewsburg, Randolph, and Salamanca, N.Y., to New York, N.Y., points on Long Island, N.Y., and those in Pennsylvania, New Jersey, Maryland, Massachusetts, Connecticut, Rhode Island, and District of Columbia; *new metal furniture and equipment* (knocked down and uncrated), and *accessories,* from Jamestown and Falconer, N.Y., to points in Delaware, Virginia, West Viriginia, and Ohio; *wool and woolen products,* in bags, bales, packages, or crates, from points in Massachusetts, Rhode Island, and Connecticut, to Jamestown and Falconer, N.Y.; *metal doors, trim, hardware, metal architectural and decorative work,* from Falconer, N.Y., to points in Connecticut, Massachusetts, and Rhode Island; *wool and woolen products,* in packages or in bulk, from Jamestown and Falconer, N.Y., to points in Connecticut, Rhode Island, and Massachusetts; *nylon and rayon tops* (fibers), in containers, from points in Connecticut, Rhode Island, and Massachusetts, to Jamestown and Falconer, N.Y.; *hospital equipment,* uncrated, from Jamestown, N.Y., and points in the town of Ellicott, Chautauqua County, N.Y., to points in Vermont, New Hampshire, and Maine; *hospital and kitchen equipment,* and *accessories therefor,* uncrated, from the town of Ellicott, Chautauqua County, N.Y., to New York, N.Y., points on Long Island, N.Y., and points in Pennsylvania, New Jersey, Maryland, Massachusetts, Connecticut, Rhode Island, District of Columbia, Delaware, Virginia, West Virginia, and Ohio; *metal doors, windows, partitions, and parts thereof,* and *metal construction and decorative materials* not included in the foregoing commodities, *related hardware items* incidental to the installation of the above-described commodities, uncrated, from points in Chautauqua County, N.Y., to points on Long Island, N.Y., points in Pennsylvania (except Philadelphia, York, Lancaster, Landisville, Steelton, Harrisburg, and those points in Chester, Delaware, Montgomery, and Bucks Counties), points in New Jersey (except Camden and Trenton, those points within 45 miles of Kennett Square, Pa., those points on and south of U.S. Highway 30, and Hudson, Essex, Bergen, and Passaic Counties), points in Maryland (except Baltimore and points within 8 miles thereof), points in Delaware (except New Castle), and points in Massachusetts, Connecticut, Rhode Island, Virginia, West Virginia, Ohio, Vermont, New Hampshire, and Maine. BLODGETT UNCRATED FURNITURE SERVICE, INC., is authorized to operate as a *common carrier* in Michigan, Missouri, Illinois, Indiana, Ohio, Pennsylvania, New York, Maryland, Iowa, Minnesota, New Jersey, Massachusetts, Connecticut, Rhode Island, Wisconsin, Virginia, West Virginia, Delaware, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC–F–8511. Authority sought for purchase by QUINN FREIGHT LINES, INC., 1093 North Montello Street, Brockton, Mass., of the operating rights and property of MARCELL'S MOTOR EXPRESS, INC., Shelburne Road, South Burlington, Vt., and for acquisition by THOMAS J. LYONS, also of Brockton, Mass., of control of such rights and property through the purchase. Applicants' attorneys: Mary E. Kelley, 10 Tremont Street, Boston 8, Mass., and J. Boone Wilson, 178 Main Street, Burlington, Vt. Operating rights sought to be transferred: *General commodities,* excepting, among others, household goods and commodities in bulk, as a *common carrier* over regular routes, between Burlington, Vt., and New York, N.Y., serving all intermediate points between Burlington, Vt., and the Vermont-New York State line, the off-route points of Essex Junction and Fort Ethan Allen, Vt., and those in Vermont within 25 miles of Rutland, restricted to traffic moving to or from New York and New Jersey points; and Albany, Amsterdam, Garden City, Kingston, Port Chester, Troy, and White Plains, N.Y., Belleville, East Rutherford, Garfield, Irvington, Newark, Metuchen, and Paterson, N.J., and points in the New York, N.Y., commercial zone, as defined by the Commission restricted to traffic moving to or from Vermont points, between Barre, Vt., and Burlington, Vt., between Barre, Vt., and Randolph, Vt., between Barre, Vt., and Rochester, Vt., serving all intermediate points; *general commodities,* excepting, among others, household goods and commodities in bulk, over irregular routes, between Burlington, Vt., on the one hand, and, on the other, St. Albans, Vt., and points within 30 miles of St. Albans, Vt., between points in Weston, Andover, Chester, and Springfield Townships, Windsor County, Vt., those in Windham County, Vt., on and north of Vermont Highway 9, and those in Bennington County, Vt., on and east of U.S. Highway 7 and on and north of Vermont Highway 9, on the one hand, and, on the other, points in Massachusetts, and Connecticut, and those in New York and New Jersey within 50 miles of the Vermont-New York, Massachusetts-New York and the Connecticut-New York State lines, except those on Long Island, not within Greater New York City, between Brattleboro, Vt., on the one hand, and, on the other, points in New Hampshire and Vermont within 50 miles of Brattleboro, Vt.; *apples* between Brattleboro, Vt., on the one hand, and, on the other, points in Maine, New Hampshire, New York, and Rhode Island within 100 miles of Brattleboro, Vt. Vendee is authorized to operate as a *common carrier* in Maryland, New York, New Jersey, Delaware, Connecticut, Rhode Island, Massachusetts, Pennsylvania, New Hampshire, Virginia, Maine, Vermont, West Virginia, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC–F–8512. Authority sought for control by RICHARD E. LESTER, WOODROW E. LESTER, FRED A. KRIEG, and MARVIN W. LESTER, 710 Pentland, The Dalles, Oreg., of MID-COLUMBIA MOTOR FREIGHT, INC., 710 Pentland, The Dalles, Oreg. Applicants' attorney: Earle V. White, 2130 Southwest Fifth Avenue, Portland 1, Oreg. Operating rights sought to be controlled: *General commodities,* excepting, among others, household goods and commodities in bulk, as a *common carrier* over a regular route, between Portland, Oreg., and Washougal, Wash., serving the intermediate point of Vancouver, Wash., and intermediate and off-route points within 10 miles of Washougal; *fruit,* over irregular routes, from points in Hood River County, Oreg., and those in Wasco County, Oreg., located on and west of U.S. Highway 197 (formerly Oregon Highway 23), to Vancouver, Wash.; *paper products,* from Camas, Wash., to points in Hood River County, Oreg., and those in Wasco County, Oreg., located on and west of U.S. Highway 197; *box shooks,* from Vancouver, and Bingen, Wash., to points in Hood River County, Oreg., and those in Wasco County, Oreg., located on and west of U.S. Highway 197, RESTRICTION: The irregular-route authority authorized above is restricted to the season from July 1 to December 31, inclusive; *general commodities,* excepting, among others, household goods and commodities in bulk, between points in Hood River County, Oreg., on the one hand, and, on the other, points in Klickitat County, Wash.; *fruit,* from points in Hood River County, Oreg., and those in Klickitat County, Wash., to Portland, Oreg.; *agricultural commodities,* from points in Wasco, Sherman, Gilliam, Hood River and Jefferson Counties, Oreg., to Portland, Oreg.; *petroleum*

products, in containers, *fuel, merchandise, farm machinery, salt, bags*, and *twine*, from Portland, Oreg., to points in Wasco, Sherman, Gilliam, Hood River, and Jefferson Counties, Oreg.; *fresh fruits and vegetables, fruit-spraying compounds, machinery and machines used in fruit-packing plants, fruit-packing house and cannery waste and byproducts, empty containers*, and *box shook* and *box tops*, between points in Wasco and Hood River Counties, Oreg., on the one hand, and, on the other, points in Yakima County, Wash. RICHARD E. LESTER, WOODROW E. LESTER, FRED A. KRIEG, AND MARVIN W. LESTER, hold no authority from this Commission. However, they are affiliated with LESTER AUTO FREIGHT, INC., Route 4, Box 33, Hood River, Oreg., which is authorized to operate as a *common carrier* in Oregon and Washington. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–8513. Authority sought for purchase by MERCHANTS FAST MOTOR LINES, INC., Post Office Drawer 270, Abilene, Tex., of a portion of the operating rights of RYDER TRUCK LINES OF MO., INC., 2001 Irving Boulevard, Dallas, Tex., and for acquisition by GENE WHITEHEAD, also of Abilene, Tex., and C. L. WHITEHEAD, 1440 Oaklawn Avenue, Dallas, Tex., of control of such rights through the purchase. Applicants' attorneys: David G. Macdonald, Suite 602 Solar Building, 1000 16th Street NW., Washington 6, D.C., and Reagan Sayers, Century Life Building, Fort Worth 2, Tex. Operating rights sought to be transferred: *General commodities*, including Class A and B explosives, but not including commodities of unusual value, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, as a *common carrier* over regular routes, between specified points in Texas as follows: between Houston, Tex., and Luling, Tex., serving all intermediate points and the off-route points of Prairie View College and the site of the Columbian Carbon Co., near Fairbanks, Tex., between Elgin, Tex., and Camp Swift, Tex., serving no intermediate points, between Greenville, Tex., and Ennis, Tex., between Waco, Tex., and Hempstead, Tex., serving all intermediate points, between Hearne, Tex., and Greenville, Tex., serving all intermediate points other than Lindale, Tex., and Class A and B explosives shall not be transported over that segment of the route which is between Palestine and Tyler, Tex., including authorized points of service, between Tyler, Tex., and Grand Saline, Tex., between Van, Tex., and Fruitvale, Tex., serving all intermediate points, between Mineola, Tex., and Dallas, Tex., serving the intermediate points of Wills Point, Tex., and those between Wills Point and Mineola, Tex., and Class A and B explosives shall not be transported over that segment of the route which is between Dallas and Fruitvale, Tex., serving to and from the off-route points of Personville, Fallon, Farrar, Donie, Normangee, Ben Hur, Carlos, Cross, Edge, Keith, Hurton, Kesa, Tabor, Washington, and Sack, Tex.; *general commodities*, excepting, among others, household goods and commodities in bulk, serving Major Field, Tex., near Greenville, Tex., as an off-route point in connection with carrier's regular route operations between Greenville, and Athens, Tex., and serving Owentown, Tex., as an off-route point in connection with carrier's authorized regular route operations to and from Tyler, Tex. Vendee is authorized to operate as a *common carrier* in Texas. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–8514. Authority sought for purchase by DIRECT TRANSIT LINES, INC., 200 Colrain Street SW., Grand Rapids 8, Mich., of a portion of the operating rights of TERRY TRUCKING SERVICE, INC., Post Office Box 502, Ottawa, Ill., and for acquisition by BERT GLUPKER, LOUIS CAIN, BRUCE GLUPKER, all of Grand Rapids, Mich., DOROTHY PERKINS, 640 South Pine Street, Arlington Heights, Ill., and MARILYN DE VREE, 7666 Chickadee Drive, Jenison, Mich., of control of such rights through the purchase. Applicants' attorney: Robert A. Sullivan, 1800 Buhl Building., Detroit 26, Mich. Operating rights sought to be transferred: *Building materials*, as a *common carrier* over irregular routes, from Chicago Heights, Ill., to points in Indiana within 60 miles of Chicago Heights. Vendee is authorized to operate as a *common carrier* in Michigan, Illinois, Ohio, Indiana, Iowa, Wisconsin, Minnesota, Missouri, West Virginia, and Kentucky. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–8515. Authority sought for purchase by E. K. MOTOR SERVICE, INC., 2504 North Broadway, Joliet, Ill., of the operating rights and property of JAHNEKE BROS. TRUCKING AND PAPER CO., INC., Railroad and McDonough Streets, Joliet, Ill., and for acquisition by EDWARD KRAMER, and JOSEPH BASARICH, both of 2504 North Broadway, Joliet, Ill., of control of such rights and property through the purchase. Applicants' attorneys: Leroy Danziger, 334 King Road, North Brunswick, N.J., and Paul F. Brumund, 314 Barber Building, Joliet, Ill. Operating rights sought to be transferred: *Tile slate and metal roofing*, and *roofing material* and *commodities used in the manufacture thereof*, except lumber, sand and gravel, as a *contract carrier* over an irregular route, between Joliet, Ill., and St. Louis, Mo. Vendee is authorized to operate as a *contract carrier* in Illinois, Indiana, and Missouri. Application has been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 63–8030; Filed, July 30, 1963; 8:51 a.m.]

FOURTH SECTION APPLICATION FOR RELIEF

JULY 26, 1963.

Protests to the granting of an application must be prepared in accordance with Rule 1.40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 38451: *Class and commodity rates from and to East Charlotte, N.C.* Filed by O. W. South, Jr., agent (No. A4354), for interested rail carriers. Rates on various commodities moving on class and commodity rates, between East Charlotte, N.C., on the one hand, and points in the United States and Canada, on the other.

Grounds for relief: New station.

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 63–8031; Filed, July 30, 1963; 8:51 a.m.]

CUMULATIVE CODIFICATION GUIDE—JULY

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