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Title 7—AGRICULTURE

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

[Valencia Orange Reg. 151, Amdt. 1]

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

Limitation of Handling

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

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 1001-1011) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of Valencia oranges grown in Arizona and designated part of California.

Order, as amended. The provisions in paragraph (b)(1)(iii) of § 908.451 (Valencia Orange Regulation 151, 31 F.R. 4727) are hereby amended to read as follows:

§ 908.451 Valencia Orange Regulation 151.

* * * * *

(b) *Order.* (1) * * *

(iii) District 3: Unlimited movement.

* * * * *

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

Dated: March 25, 1966.

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

[F.R. Doc. 66-3365; Filed, Mar. 29, 1966; 8:47 a.m.]

Chapter X—Consumer and Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture

[Milk Order No. 97]

PART 1097—MILK IN MEMPHIS, TENN., MARKETING AREA

Order Amending Order

§ 1097.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Memphis, Tenn., marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than April 1, 1966. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of the said order are known to handlers. The recommended decision of the Deputy Administrator, Regulatory Programs, was issued on February 1, 1966, and the decision of the Assistant Secretary containing all amendment provisions of this order, was issued February 23, 1966. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective April 1, 1966, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the FEDERAL REGISTER (sec. 4(c), Administrative Procedure Act, 5 U.S.C. 1001–1011).

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as herein amended;

(3) The issuance of the order amending the order is approved or favored by at least three-fourths of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area; and

(4) Included in the amending order are the provisions of the base-excess plan which were changed and such changes were approved or favored by at least three-fourths of the producers who participated in a referendum in which each individual producer had one vote, and who during the determined representative period were engaged in the production of milk for sale in the marketing area.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Memphis, Tenn., marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended and as hereby amended, as follows:

1. In § 1097.72, the word "his" is deleted from the introductory text.

2. In § 1097.82, paragraph (a), "other persons" is substituted for "another person".

3. Section 1097.83 is revised.

General amendments. 1. Section 1097.7 is revised to read as follows:

§ 1097.7 Fluid milk plant.

(a) Any milk processing or packaging plant from which a volume of Class I milk equal to an average of 1,000 pounds or more per day, or not less than 5.0 percent of the Class I milk of such plant is disposed of during the month as Class I milk on route disposition in the marketing area;

(b) Any plant from which during the month fluid milk products (bulk or packaged) in excess of 70,000 pounds are moved to and received at a plant(s) described pursuant to paragraph (a) of this section.

2. Section 1097.8 is revised to read as follows:

§ 1097.8 Route disposition.

"Route disposition" means a delivery (including disposition from a plant store or from a distribution point and distribution by a vendor or vending machine) of any fluid milk products to a retail or wholesale outlet other than a delivery to a milk plant. A delivery through a distribution point shall be attributed to the plant from which the Class I milk is moved through a distribution point to wholesale or retail outlets, without intermediate movement to another milk plant.

3. In § 1097.9 the introductory paragraph is revised to read as follows:

§ 1097.9 Nonfluid milk plant.

"Nonfluid milk plant" means any milk manufacturing, processing or packaging plant other than a fluid milk plant. The following categories of nonfluid milk plants are further defined as follows:

* * * * *

4. In § 1097.10, add new paragraphs (d), (e), and (f), and paragraphs (a) and (c) are revised to read as follows:

§ 1097.10 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more fluid milk plants;

* * * * *

(c) Any cooperative association with respect to the milk of its member-producers which it causes to be delivered directly from the farm to the fluid milk plant(s) of another handler in a bulk tank truck owned and operated by, or under contract to, or under control of such cooperative, if the cooperative association notifies the market administrator and the handler to whom the milk is delivered, in writing, that it wishes to become the handler for such milk. The cooperative association shall be considered the handler for such bulk tank milk, effective the first day of the month following receipt of such notice, and shall account for the actual receipts from each producer as determined at the farm at prices applicable to receipts from producers at plants to which the cooperative association delivers the milk. The cooperative association, once it becomes the handler for such bulk tank milk, shall remain the handler for such bulk tank milk from month to month until the cooperative association notifies the market administrator and handler that such status is to be discontinued, effective the first day of the month following receipt of such notice;

(d) Any person who operates a partially regulated distributing plant;

(e) Any person in his capacity as the operator of an unregulated supply plant; and

(f) A producer-handler, or any person who operates an other order plant described in § 1097.61.

5. In § 1097.13, the introductory sentence of paragraph (a) is revised to read as follows:

§ 1097.13 Other source milk.

* * * * *

(a) Receipts during the month at a fluid milk plant in the form of fluid milk products except:

* * * * *

6. Section 1097.16 is revised to read as follows:

§ 1097.16 Fluid milk product.

"Fluid milk product" means the fluid form of milk, skim milk, buttermilk, plain or flavored milk drinks, sweet and sour cream (except aerated cream, frozen cream, and sterilized cream packaged in hermetically sealed containers not labeled as Grade A); and any mixture in fluid form of milk, skim milk, and cream except mixes for frozen dairy products. Eggnog and sour cream mixtures to which cheese or any food substance other than a milk product has been added shall be considered as fluid milk products only if disposed of under a Grade A label.

7. In § 1097.42, paragraph (b)(1) is revise to read as follows:

§ 1097.42 Shrinkage.

* * * * *

(b) For each handler prorate the resulting respective amounts between:

(1) The pounds of skim milk and butterfat in other source milk received in the form of bulk fluid milk products exclusive of that specified in § 1097.41(b)(5); and

* * * * *

8. Section 1097.61 is revised to read as follows:

§ 1097.61 Plants subject to other Federal orders.

In the case of a handler in his capacity as operator of a plant specified in paragraph (a) or (b) of this section, the provisions of this part shall not apply except that such handler shall with respect to his total receipts and disposition of skim milk and butterfat, make reports to the market administrator at such time and in such manner as the market administrator may prescribe and allow verification of such reports by the market administrator:

(a) A plant qualified pursuant to § 1097.7 (a) or (b) which would be fully regulated pursuant to the provisions of another order issued pursuant to the Act and from which the market administrator determines that a greater volume of fluid milk products was disposed of during the month from such plant as Class I route disposition in the marketing area regulated by the other order and as fluid milk products transferred as Class I milk to plants fully regulated by such other order than as Class I route disposition in the Memphis, Tenn., marketing area and as fluid milk products transferred as Class I milk to other fluid milk plants: *Provided*, That a plant which was a fluid milk plant pursuant to § 1097.7 (a) or (b) under this order in the immediately preceding month shall continue to be subject to all of the provisions of this part until the third consecutive month in which a greater proportion of fluid milk products is disposed of as Class I milk on routes in such other marketing area or to plants fully subject to such other order, unless the other order requires regulation of the plant without regard to its qualifying as a fluid milk plant for regulation under this order subject to the proviso of this paragraph; and

(b) A plant qualified pursuant to § 1097.7 (a) or (b) which meets the requirements for fully regulated plants under another Federal order and from which the market administrator determines a greater volume of fluid milk products is disposed of during the month as Class I route disposition in the Memphis, Tenn., marketing area and as fluid milk products transferred as Class I milk to other fluid milk plants than as Class I route disposition in the other marketing area and fluid milk products transferred as Class I milk to plants fully regulated by such other order, and such other order which fully regulates the plant does not contain provision to exempt the plant from regulation under the particular circumstances described herein of having greater Class I disposition under the Memphis, Tenn., order.

9. In § 1097.70, paragraph (e) is revised to read as follows:

§ 1097.70 Net obligations of handlers.

* * * * *

(e) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the lesser of:

(1) The pounds of skim milk and butterfat subtracted from Class I pursuant to § 1097.46(a)(5) and the corresponding step of (b); or

(2) The pounds of skim milk and butterfat remaining in Class II (exclusive of shrinkage) after computations pursuant to § 1097.46(a)(7)(i) and the corresponding step of (b) for the preceding month.

* * * * *

10. In § 1097.71, the introductory text is revised to read as follows:

§ 1097.71 Computation of uniform prices for handlers.

In any month when the base and excess prices do not apply, the market administrator shall compute for each handler a uniform price with respect to his producer milk as follows:

* * * * *

11. The base-excess plan provisions which are modified are §§ 1097.31(b)(3),

1097.72, 1097.80, 1097.81, 1097.82, and 1097.83.

§ 1097.31 Other reports.

* * * * *

(b) * * *

(3) * * *, and the base milk and excess milk of each producer-member received by a cooperative association in its capacity as a handler pursuant to § 1097.10(c);

* * * * *

§ 1097.72 Computation of the uniform prices for base and excess milk for handlers.

For each of the months of March through July the market administrator shall compute for each handler with respect to producer milk a uniform price for base milk and for excess milk as follows:

(a) Following the computations and adjustments provided for in § 1097.71 (a), (b), and (d);

(b) Compute the value of excess milk received by such handler as producer milk and bulk milk from a cooperative association in its capacity as a handler pursuant to § 1097.10(c), by multiplying the quantity of such milk not in excess of the total quantity of Class II milk for such handler pursuant to § 1097.70(a) by the Class II price; multiply the remaining excess milk by the Class I price, and add together the resulting amounts;

(c) Divide the total value of excess milk obtained in paragraph (b) of this section by the total hundredweight of such excess milk and adjust to the nearest cent. The resulting figure shall be the uniform price for such handler for all excess milk of 3.5 percent butterfat content;

(d) Subtract, for each handler, the value of such handler's excess milk obtained in paragraph (b) of this section from the value of all milk obtained for such handler pursuant to paragraph (a) of this section; and

(e) Divide the amount obtained in paragraph (d) of this section by the total hundredweight of base milk received by such handler. The result, less any fraction of a cent per hundredweight, shall be the uniform price for such handler for base milk of 3.5 percent butterfat content subject to adjustments pursuant to § 1097.93.

DETERMINATION OF BASE

§ 1097.80 Computation of daily average base for each producer.

The daily average base for each producer shall be determined by the market administrator as follows: Divide the total pounds of milk received from such producer by handlers fully regulated under the terms of the respective orders regulating the handling of milk in the Memphis, Tenn.; Fort Smith, Ark.; and Central Arkansas marketing areas (this Part 1097 and Parts 1102 and 1108, respectively, of this chapter) during the immediately preceding period of September through January, by the total number of days in such period beginning with the first day on which milk is received from such producer by a handler regulated under any one of the aforesaid orders, but not less than 120. In the case of producers delivering milk to a handler's plant which first became a fluid milk plant during or after the end of the base-forming period, the daily average base for each producer shall be that which would have been calculated for such producer for the entire base-forming period if the handler's plant had been a fluid milk plant during such period.

§ 1097.81 Determination of monthly base of each producer.

Subject to the rules set forth in § 1097.82, the market administrator shall calculate a monthly base for each producer for each of the months of March through July, as follows:

(a) If milk is received by a handler as producer milk during the month, multiply such producer's daily average base computed pursuant to § 1097.80 by the number of days in such month;

(b) If milk is received as producer milk from the same farm by more than one handler and/or by handlers fully regulated under the terms of the Central Arkansas (Part 1108 of this chapter) or Fort Smith, Ark. (Part 1102 of this chapter), orders during the month, multiply such producer's daily average base computed pursuant to §1097.80 by the number of days in such month and multiply the result by the percentages of the total pounds of milk received from such producer by handlers fully regulated under the terms of the three orders specified in § 1097.80 which were received by each handler to determine the amount of base milk received from such producer by each handler.

§ 1097.82 Base rules.

The following rules shall apply in connection with the establishment of bases for each producer computed pursuant to § 1097.80:

(a) An entire base or share of a joint holder shall be transferred from a person holding such base to other persons as of the end of the month during which an application for the transfer of such base is received by the market administrator, such application to be on forms approved by the market administrator and signed by the base holder(s) or by the heirs and by the person to whom such base is to be transferred subject to the following conditions:

(1) If a base is held jointly and such joint holding is terminated, the entire base may be transferred to one of the joint holders;

(2) The share of a joint base holder may be transferred to a person other than a joint holder of the base only if all shares of the entire base are at the same time transferred to the same or other persons; and

(3) If one or more bases are transferred to a producer already holding a base, a new base shall be computed by adding together the total eligible deliveries during the period of September through January of all persons in whose names such bases were earned and dividing the total by the total number of days in such period beginning with the first day on which milk was received during the months of September through January from any of such persons but not less than 120 days.

§ 1097.83 Announcement of established bases.

On or before February 25 of each year, the market administrator shall notify each producer of the daily average base established by such producer, or shall notify the cooperative association of which such producer is a member of such daily average base.

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

Effective date: April 1, 1966.

Signed at Washington, D.C., on March 25, 1966.

GEORGE L. MEHREN,
Assistant Secretary.

[F.R. Doc. 66-3404; Filed, Mar. 29, 1966; 8:50 a.m.]

Title 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice

MISCELLANEOUS AMENDMENTS TO CHAPTER

The following amendments to Chapter I of Title 8 of the Code of Federal Regulations are hereby prescribed:

PART 204—PETITION TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF U.S. CITIZEN OR AS PREFERENCE IMMIGRANT

1. Paragraph (d) of § 204.1 *Petition* is amended to read as follows:

§ 204.1 Petition.

* * * * *

(d) *Aliens who will perform skilled or unskilled labor.* A person, firm, or organization desiring and intending to employ within the United States an alien entitled to classification as a preference immigrant under section 203(a)(6) of the Act shall file a petition on Form I–140. A separate form must be submitted for each beneficiary, executed under oath or affirmation, accompanied by a fee of $10. Before it may be accepted by the Service and considered properly filed, the petition must also be accompanied by the required certification of the Secretary of Labor specified in § 204.2(g), unless the occupation is included in the current list of categories of employment for which the Secretary of Labor has issued a blanket certification (Schedule A, 29 CFR 60). If the occupation in which the alien will be employed is on the list, Form ES–575 A and B properly executed in accordance with the instructions for completion of that form must be attached to the visa petition, before it may be accepted by the Service and considered properly filed.

The petition shall be filed in the office of the Service having jurisdiction over the place where the alien's services are to be performed. The beneficiary and the petitioner may be required, as a matter of discretion, to appear in person before an immigration officer prior to the adjudication of the petition and be interrogated under oath concerning the allegations in the petition. The petitioner shall be notified of the decision and, if the petition is denied, the reasons therefor and of his right to appeal in accordance with the provisions of Part 103 of this chapter. However, no appeal shall lie from a decision denying the petition for lack of a certification by the Secretary of Labor pursuant to section 212(a)(14) of the Act.

2. Paragraphs (f) and (g) of § 204.2 *Documents* are amended to read as follow:

§ 204.2 Documents.

* * * * *

(f) *Evidence of professional status or of exceptional ability in sciences or arts.* A petition seeking to classify an alien as a member of a profession or as an alien with exceptional ability in the sciences or arts within the meaning of section 203(a)(3) of the Act must be submitted to the Service with Form ES–575A properly executed in accordance with the instructions for completion of that form and accompanied by the evidence of the beneficiary's qualifications specified in those instructions. Unless the alien's occupation is included in the categories of employment for which the Secretary of Labor has issued a blanket certification under section 212(a)(14) of the Act (Schedule A, 29 CFR 60) and the alien clearly comes within the terms of such certification, or the alien is clearly not within the purview of section 203(a)(3) of the Act, the Service will refer Form ES–575A and supporting documents to the Bureau of Employment Security, Department of Labor. The documents supporting a petition in behalf of a member of the professions or in behalf of an alien with exceptional ability in the sciences or arts, whose eligibility is based in whole or in part on high education, shall include a certified copy of the alien's school record. The record must show the period of attendance, major field of study, and the degrees or diplomas awarded. If the alien has received a license or other official permission to practice his profession, the license or other official permit to practice must also be submitted. If the alien's eligibility is based on a claim of exceptional ability in the sciences or the arts, documentary evidence supporting the claim must be submitted by the petitioner. Such evidence may attest to the universal acclaim and either the national or international recognition accorded to the alien; that he has received a nationally or internationally recognized prize or award or won a nationally or internationally recognized competition for excellence for a specific product or performance or for outstanding achievement; or that he is a member of a national or international association of persons which maintains standards of membership recognizing outstanding achievement as judged by recognized national or international experts in a specific discipline or field of endeavor. An affidavit attesting to an alien's exceptional ability in the sciences or the arts must set forth the name and address of the affiant, state how he has acquired his knowledge of the alien's qualifications, and must describe in detail the facts on which the affiant bases his assessment of the alien's qualifications. If material published by or about the alien is submitted, it must be accompanied by information as to the date, place, and title of the publication. After review of any Form ES–575A and supporting documents referred by the Service, the Bureau of Employment Security will notify the Service of its determination with respect to the issuance of a certification under section 212(a)(14) of the Act, and will also advise concerning the beneficiary's qualifications as a member of a profession or as an alien of exceptional ability in the sciences or arts. The current list of categories of employment for which the blanket certification under section 212(a)(14) of the Act has been issued may be obtained from the principal offices of the Service.

(g) *Evidence required to accompany petition for skilled or unskilled labor.* A visa petition to accord an alien classification under section 203(a)(6) of the Act may be filed only if it is accompanied by the certification of the Secretary of Labor issued under section 212(a)(14) of the Act. However, if the occupation in which the alien is to be employed is included in the current list of categories of employment contained in Schedule A, 29 CFR 60, the petition may be filed if it is accompanied by Form ES–575 A and B. Form ES–575 A and B shall be properly executed in accordance with the instructions for completion of that form, and accompanied by the documentary evidence specified in those instructions. If the occupation in which the alien would be employed is not on the list, the petitioner may apply for the certification by submitting to the local State Employment Service Form ES–575 A and B properly executed in accordance with the instructions on the form, together with the documentary evidence specified in the instructions. If a certification is issued to the petitioner, it will be endorsed on Form ES–575 by the Secretary of Labor or his designated representative. The Secretary of Labor or his designated representative will also furnish an advisory opinion concerning the beneficiary's qualifications. Upon receipt of the certification, the petitioner shall file the petition in the office of the Service having jurisdiction over the intended place of employment. Form ES–575 A and B, including the certification and the documentary evidence of the beneficiary's qualifications for the position in which he is to be employed, shall also be attached to the petition. If the alien's qualifications are based in whole or in part on attendance at a school, the evidence must include a certified copy of his school record. The record must show the period of attendance, the major field of study, and the certificates, diplomas, or degrees awarded. If the alien's eligibility is based on training or experience, documentary evidence thereof, such as affidavits must be submitted by the petitioner. Affidavits must be made by the alien's present and former employers or by other persons familiar with the alien's work. Each such affidavit must set forth the name and address of the affiant and state how he acquired his knowledge of the alien's qualifications, state the place where and the dates during which the alien gained his training or experience, and must describe in detail the duties performed by the alien, any tools used, and any supervision received or exercised by the alien. A current list of categories of employment for which the Secretary of Labor has determined a certification under section 212(a)(14) of the Act cannot be made (Schedule B, 29 CFR 60) may be obtained from the principal offices of the Service.

PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

§ 212.7 [Amended]

The last sentence of paragraph (b) *Section 212(g) (tuberculosis and certain mental conditions)* of § 212.7 *Waiver of certain grounds of excludability* is amended to read as follows: "An alien who is applying at a port of entry for admission to the United States, or who is outside the United States and is applying for conditional entry pursuant to section 203(a)(7) of the Act, or who is within the United States and is under any proceeding before the Service in which a waiver pursuant to section 212(g) is required before it may be determined that he is not excludable under section 212(a)(1), (3), or (6) of the Act, may file an application with the Service office having jurisdiction over the port of entry or place where he is located."

PART 235—INSPECTION OF ALIENS APPLYING FOR ADMISSION

Section 235.9 is amended by redesignating existing paragraphs (a), (b), and (c), as (c), (d), and (e), respectively, and inserting new paragraphs (a) and (b) to read as follows:

§ 235.9 Conditional entries.

(a) *Countries in which applications may be filed.* Pursuant to agreements entered into with the governments of the countries concerned, officers of the Service are authorized to accept applications and to examine the qualifications of applicants for conditional entry under section 203(a)(7) of the Act in Austria, Belgium, France, Germany, Greece, Italy, and Lebanon. Applications for conditional entry may be filed only by aliens who are physically present within one of the designated countries.

(b) *Applicants afflicted with tuberculosis, or applicants found inadmissible under section 212(a) (1) or (3).* The provisions of section 212(g) of the Act shall apply to an applicant for conditional entry excludable from the United States under section 212(a)(6) because of affliction with tuberculosis, or who is excludable under section 212 (a) (1) or (3) of the Act, if the applicant has one of the family relationships specified in section 212(g), including the relationship specified to an alien whose conditional entry has been authorized.

* * * * *

PART 245—ADJUSTMENT OF STATUS TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE

1. Paragraphs (e) and (g) of § 245.1 *Eligibility* are amended to read as follows:

§ 245.1 Eligibility.

* * * * *

(e) *Nonpreference aliens.* An applicant who is a nonpreference alien and is seeking adjustment of status for the purpose of engaging in gainful employment in the United States is not eligible for the benefits of section 245 of the Act unless he presents with his application a certification issued by the Secretary of Labor under section 212(a)(14) of the Act, or unless he establishes that his occupation is included in the current list of categories of employment for which the Secretary of Labor has issued a blanket certification under that section (Schedule A, 29 CFR 60).

* * * * *

(g) *Availability of immigrant visas.* If the applicant is a preference or nonpreference alien, the current Department of State Visa Office Bulletin on Availability of Immigrant Visa Numbers will be consulted to determine whether an immigrant visa is immediately available. An immigrant visa is considered available for accepting and processing the application Form I–485 if the applicant has a priority date on the waiting list which is not more than 90 days later than the date shown in the bulletin. The priority date of an applicant who is claiming eligibility for preference classification by virtue of a valid visa petition approved in his behalf shall be fixed by the date on which such approved petition was filed. The priority date of a nonpreference applicant shall be fixed by the following factors, whichever is the earliest: (1) The priority date accorded the applicant by the consular officer as a nonpreference immigrant; (2) the date on which application Form I–485 is filed, if the applicant establishes that the provisions of section 212(a)(14) of the Act do not apply to him or that he is qualified in the categories of employment currently listed in Schedule A, 29 CFR 60, for which the Secretary of Labor has issued a blanket certification; or (3) the date of issuance of an individual certification by the Secretary of Labor pursuant to section 212(a)(14) of the Act, if such individual certification is required. An application for adjustment as a preference or nonpreference alien shall not be approved until an immigrant visa number has been allocated by the Department of State. Information as to the immediate availability of an immigrant visa may be obtained at the nearest Service office.

§ 245.2 [Amended]

2. Section 245.2 *Application* is amended in the following respects:

(a) "(a) *General.*" is added after the existing section headnote and preceding the present text.

(b) Paragraph (b) is added to read as follows:

(b) *Application by nonpreference alien seeking adjustment of status for purpose of engaging in gainful employment*—(1) *Alien who is a member of the professions or has exceptional ability in the sciences or the arts.* An applicant for adjustment of status as a nonpreference alien under section 245 of the Act who is a qualified member of the professions or has exceptional ability in the sciences or the arts must submit Form ES–575A with his application in addition to the other documents specified in § 245.2(a). The Form ES–575A must be executed in accordance with the instructions for the completion of that form and must be accompanied by the evidence of the applicant's qualifications specified in those instructions. The Service will refer Form ES–575A and the supporting evidence to the Secretary of Labor or his designated representative, unless the applicant is clearly qualified in one of the categories of employment currently listed in Schedule A, 29 CFR 60, for which the Secretary of Labor has issued a blanket certification under section 212 (a)(14) of the Act, or unless the Service determines that the applicant is clearly not a qualified member of a profession or a person with exceptional ability in the sciences or the arts. After review of any Form ES–575A and supporting documents referred by the Service, the Secretary of Labor or his designated representative will notify the Service of his determination with respect to the issuance of a certification and will also advise concerning the alien's qualifications as a member of a profession or as an alien of exceptional ability in the sciences or the arts. The current list of categories of employment for which the blanket certification under section 212 (a)(14) of the Act has been issued may be obtained from the principal offices of the Service.

(2) *Other nonpreference aliens who will engage in gainful employment.* If the applicant for adjustment as a nonpreference alien under section 245 of the Act is not a member of a profession or a person with exceptional ability in the sciences or the arts but is qualified for and intends to be employed in a category of employment currently listed in Schedule A, 29 CFR 60, for which the Secretary of Labor has issued a blanket certification under section 212(a)(14) of the Act, the applicant shall submit Form ES–575A with his application. The Form ES–575A must be executed in accordance with the instructions for the completion of that form and must be accompanied by the evidence of the applicant's qualifications specified in those instructions. Any other applicant for adjustment of status as a nonpreference alien under section 245 of the Act who is not a qualified member of the professions or does not possess exceptional ability in the sciences or the arts shall have his employer or prospective employer apply for the certification by submitting to the local State Employment Service Form ES–575 A and B, properly executed in accordance with the instructions for completion of that form, together with the documentary evidence specified in the instructions. If a certification is issued, it will be endorsed on Form ES–575, and an advisory opinion concerning the applicant's qualifications will also be furnished by the Secretary of Labor or his designated representative. Upon receipt of the certification by the applicant's employer or prospective employer, he shall transmit it to the applicant, together with Form ES–575 A and B and the documentary evidence of the applicant's qualifications returned by the Department of Labor, for attachment to the application. The documents specified in § 245.2(a) must also be submitted. A nonpreference alien who is performing or is seeking to perform employment which is included in the list of categories of employment for which the Secretary of Labor has determined that a certification under section 212(a)(14) of the Act cannot be made (Schedule B, 29 CFR 60) shall be deemed ineligible under that section to receive an immigrant visa or to be admitted to the United States for permanent residence. Information concerning categories of employment currently included in that list may be obtained from the principal offices of the Service.

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103)

This order shall be effective on the date of its publication in the FEDERAL REGISTER. Compliance with the provisions of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003) as to notice of proposed rule making and delayed effective date is unnecessary in this instance because the rules prescribed by the order relate to agency procedure.

Dated: March 24, 1966.

RAYMOND F. FARRELL,
Commissioner of Immigration and Naturalization.

[F.R. Doc. 66-3408; Filed, Mar. 29, 1966; 8:50 a.m.]

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

PART 40—LICENSING OF SOURCE MATERIAL

PART 50—LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

PART 55—OPERATORS' LICENSES

PART 70—SPECIAL NUCLEAR MATERIAL

PART 100—REACTOR SITE CRITERIA

PART 115—PROCEDURES FOR REVIEW OF CERTAIN NUCLEAR REACTORS EXEMPTED FROM LICENSING REQUIREMENTS

PART 140—FINANCIAL PROTECTION REQUIREMENTS AND INDEMNITY AGREEMENTS

PART 150—EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES UNDER SECTION 274

Miscellaneous Amendments

Correction

In F.R. Doc. 66–2950 appearing at page 4668 in the issue for Saturday, March 19, 1966, the first sentence in the second paragraph is corrected to read as follows: "The amendments pertain to the addressing of communications, declarations, requests, reports, and applications with the Commission, required by or relating to the regulations in these parts."

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

[Airspace Docket No. 65–WE–24]

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

Designation of Control Zone, Alteration of Transition Area, and Alteration of Federal Airways

On January 22, 1966, a notice of proposed rule making was published in the FEDERAL REGISTER (31 Fed. Reg. 911 (1966)) stating that the Federal Aviation Agency proposed to alter the controlled airspace in the Tonopah, Nev., area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001, E.S.T., May 26, 1966, as hereinafter set forth:

In § 71.171 (31 Fed. Reg. 2065 (1966)) the following control zone is added:

TONOPAH, NEV.

Within a 5-mile radius of Tonopah Airport (latitude 38°03'30" N., longitude 117°05'-00" W.).

[Airspace Docket No. 65–WE–24]

In § 71.181 (31 Fed. Reg. 2262 (1966)) the Tonopah, Nev., transition area is amended to read:

TONOPAH, NEV.

That airspace extending upward from 700 feet above the surface within 2 miles W and 3 miles E of the Tonopah VORTAC 198° radial, extending from the VORTAC to 5 miles S of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within 9 miles N and 8 miles S of the Tonopah VORTAC 083° and 263° radials, extending from 17 miles E to 8 miles W of the VORTAC.

In § 71.123 (31 Fed. Reg. 2034 (1966)) the description of VOR Federal airway No. 244 is amended by deleting, "; 24 miles 12 AGL 115 MSL Wilson Creek, Nev.;" and substitute therefor "; 40 miles 12 AGL 115 MSL Wilson Creek, Nev.;"

(Sec. 307(a), Federal Aviation Act of 1958, as amended, 72 Stat. 749; 49 U.S.C. 1348)

Issued in Los Angeles, Calif., on March 21, 1966.

LEE E. WARREN,
Acting Director, Western Region.

[F.R. Doc. 66–3340; Filed, Mar. 29, 1966; 8:45 a.m.]

[Airspace Docket No. 66–SO–10]

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

Alteration of Transition Area

On February 11, 1966, a notice of proposed rule making was published in the FEDERAL REGISTER (31 F.R. 2661) stating that the Federal Aviation Agency was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Sumter, S.C., transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

In the notice, the geographical coordinate for McEntire ANGB was in error. The correct coordinate is incorporated in this final rule.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001, e.s.t., May 26, 1966, as hereinafter set forth.

In § 71.181 (31 F.R. 2149) the Sumter, S.C., transition area is amended to read:

SUMTER, S.C.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Shaw AFB (latitude 33°58'15" N., longitude 80°28'19" W.), within 2 miles SE and 10 miles NW of the Shaw AFB VOR 035° and 215° radials extending from 5 miles SW to 12 miles NE of the VOR, within 5 miles SE and 8 miles NW of the Shaw VOR 234° radial extending from the 7-mile radius area to 12 miles SW of the VOR, within 2 miles each side of the Shaw ILS localizer SW course extending from the 7-mile radius area to 12 miles SW of the Shaw OM; within an 8-mile radius of McEntire ANGB (latitude 32°55'26" N., longitude 80°48'14" W.), within 5 miles NE and 8 miles SW of the McEntire VOR 139° radial extending from the 8-mile radius area to 12 miles SE of the VOR; and within a 5-mile radius of Sumter Airport (latitude 33°59'39" N., longitude 80°21'45" W.). The portion within R–6001 and R–6002 shall be used only after obtaining approval from appropriate authority.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348(a))

Issued in East Point, Ga., on March 22, 1966.

WILLIAM M. FLENER,
Acting Director, Southern Region.

[F.R. Doc. 66–3341; Filed, Mar. 29, 1966; 8:45 a.m.]

[Airspace Docket No. 66–WE–2]

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

Alteration of Transition Area

On January 28, 1966, a notice of proposed rule making was published in the FEDERAL REGISTER (31 F.R. 1156 (1966)) stating the Federal Aviation Agency proposed to alter the controlled airspace in the Salt Lake City, Utah, terminal area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. The one comment received was favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., May 26, 1966, as hereinafter set forth:

In § 71.181 (31 F.R. 2251 (1966)) the following transition area is amended: Salt Lake City, Utah.

Delete "* * * and that airspace SE of Salt Lake City extending upward from 13,000 feet MSL bounded on the NE by V–484, on the S by V–200 and the NW by V–235, excluding the portion within Restricted Area R–6403 * * *" and substitute therefor "* * * and that airspace SE of Salt Lake City extending upward from 12,400 feet MSL bounded on the NE by the SW edge of V–484, on the S by the N edge of V–200 and on the NW by the SE edge of V–235, excluding the portion within Restricted Area R–6403."

In § 71.181 (31 F.R. 2244 (1966)) the following transition area is redesignated:

PROVO, UTAH

That airspace extending upward from 1,200 feet above the surface bounded on the N by latitude 40°30'00" N., on the SE by the NW edge of V–235 and V–21, on the W by the E edge of V–257 to point of beginning excluding the portion within R–6401; and that airspace SE of the Provo VORTAC extending upward from 9,500 feet MSL bounded on the E by longitude 111°41'00" W., on the S by latitude 40°00'00" N., on the NW by the SE edge of V–21 and on the N by the S edge of V–200.

(Sec. 307(a), Federal Aviation Act of 1958, as amended; 72 Stat. 749; 49 U.S.C. 1348)

Issued in Los Angeles, Calif., on March 21, 1966.

LEE E. WARREN,
Acting Director, Western Region.

[F.R. Doc. 66-3342; Filed, Mar. 29, 1966; 8:45 a.m.]

[Airspace Docket No. 66-WE-15]

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

Alteration of Transition Area; Correction

On March 3, 1966, an amendment to Part 71 of the Federal Aviation Regulations was issued that altered the description of the Paso Robles, Calif., transition area. Subsequent to the issuance of the final rule it was determined that the 700-foot transition area was erroneously designated in part as "* * * extending from the 5-mile radius zone * * *". The correct description is "* * * extending from the arc of a 5-mile radius circle centered on Paso Robles County Airport (latitude 35°40'15" N., longitude 120°37'35" W.) * * *".

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001, e.s.t., May 26, 1966, as hereinafter set forth:

In § 71.181 (31 Fed. Reg. 2237 (1966)) the Paso Robles transition area is amended as follows:

PASO ROBLES, CALIF.

That airspace extending upward from 700 feet above the surface within 2 miles each side of the Paso Robles VORTAC 332° and 342° radials, extending from the arc of a 5-mile radius circle centered on the Paso Robles County Airport (latitude 35°40'15" N., longitude 120°37'35" W.) to 10 miles NW of the VOR, and within 2 miles each side of the Paso Robles VORTAC 149° radial, extending from the arc of a 5-miles radius circle centered on the Paso Robles County Airport to 8 miles SE of the VORTAC; that airspace extending upward from 1,200 feet above the surface within 12 miles NE and 7 miles SW of the Paso Robles VORTAC 149° and 329° radials, extending from 20 miles SE to 9 miles NW of the VORTAC, and within 12 miles NE and 7 miles SW of the 142° and 322° radials, extending from 9 miles SE to 24 miles NW of the VORTAC. The airspace within R-2504 shall be used only after obtaining prior approval from appropriate authority.

(Sec. 307(a), Federal Aviation Act of 1958, as amended; 72 Stat. 749; U.S.C. 1348)

Issued in Los Angeles, Calif., on March 21, 1966.

LEE E. WARREN,
Acting Director, Western Region.

[F.R. Doc. 66-3343; Filed, Mar. 29, 1966; 8:45 a.m.]

[Airspace Docket No. 65-WE-123]

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

Alteration of Federal Airway

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to realign VOR Federal airway No. 23 west alternate segment from Eugene, Oreg., via Corvallis, Oreg., and intersection of the Corvallis 352° T (332° M) and Newberg, Oreg., 204° T (183° M) radials; to Newberg.

This amendment will result in a slight realignment of a segment of this alternate, however it will shorten the airway distance on the alternate airway and will permit a reduction in the highest minimum en route altitude of 2,000 feet.

Since the alteration of the alignment is slight, and the public will realize a substantial benefit in the reduction of the MEA and airway distance, the Administrator finds that notice and public procedure hereon are unnecessary.

In consideration of the foregoing, § 71.123 (31 F.R. 2009) is amended, effective 0001, e.s.t., May 26, 1966, as hereinafter set forth.

In V-23 "a W alternate from Eugene to Portland via INT of Eugene 346° and Newburg, Oreg., 204° radials, and Newberg;" is deleted and "a W alternate from Eugene to Portland via Corvallis, Oreg., INT of Corvallis 352° and Newberg, Oreg., 204° radials and Newberg;" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Washington, D.C., on March 23, 1966.

H. B. HELSTROM,
Acting Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 66-3344; Filed, Mar. 29, 1966; 8:45 a.m.]

Chapter II—Civil Aeronautics Board

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. No. ER-455]

PART 287—EXEMPTION AND APPROVAL OF CERTAIN INTERLOCKING RELATIONSHIPS

Miscellaneous Amendments

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 23d day of March 1966.

Part 287 of the Board's economic regulations provides for exemption and approval of certain interlocking relationships. Section 287.3(d) exempts direct air carriers with respect to interlocking relationships between such carriers and any persons engaged in any phase of aeronautics otherwise than as an air carrier, with certain exceptions, unless the transactions between the air carrier and the person engaged in a phase of aeronautics exceed $100,000 a year.[1]

By Order E-23037, December 27, 1965, the Board approved under section 409 of the Act an interlocking relationship resulting from the election of the President of United Air Lines as a director of a bank participating in aircraft lease transactions with United. Because of the ramifications of that order, American Airlines, Pan American World Airways and Trans-World Airlines have jointly filed a petition for amendment of Part 287 to permit the exemption of interlocking relationships involving directors of financing institutions engaged in aircraft leasing. Petitioners note that in the order referred to the Board took jurisdiction under the assumption that the bank was engaged in a phase of aeronautics and petitioners state that similar interlocking relationships exist in the airline industry. Specifically, it is alleged that a number of directors of petitioners are also directors of a bank participating in the United lease financing arrangements, although none is an officer of an airline and petitioners have no lease financing arrangements with the banks.

The situation presented by petitioners arises from aircraft leasing transactions entered into between a direct air carrier and participating banks. Although such banks had not previously been considered to be engaged in a phase of aeronautics, in the Board's view they are probably now so engaged, by virtue of these leasing transactions, and interlocking relationships between air carriers and such banks thus would appear to come within the purview of section 409. Petitioners urge that Part 287 be amended to make it clear that the exemption from section 409(a) of the Act is available even though normal transactions between the air carrier and banks and insurance companies may exceed $100,000 during a calendar year.

The Board has decided to amend Part 287 along the lines suggested by petitioners. To the extent and for the period hereinafter indicated, the Board finds that a blanket exemption should be given with respect to interlocking relationships between air carriers and commercial lending institutions engaged in a phase of aeronautics by virtue of aircraft leasing transactions. In view of the number of such interlocking relationships [2] it would be burdensome on the parties concerned to require them to file applications for approval of the relationships. Furthermore, as stated by petitioners, it would be very difficult for the carriers to keep themselves advised of all leasing transactions that financing institutions

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[1] Excluding transactions involving the furnishing of transportation service by an air carrier pursuant to tariff rates duly filed with the Board.

[2] For example, 28 banks and 5 insurance companies participated in the United leasing transactions.

might enter into. Thus, if an exemption were not available, innocent interlocking directorships might arise and the problem of potential and inadvertent violation of section 409 of the Act would continually be present. However, we do not intend to enlarge the scope of the exemption beyond that necessary to cover the peculiar situation presented.

Accordingly, Part 287 will be amended by adding a new § 287.3a exempting direct and indirect air carriers with respect to interlocking relationships between any such air carrier and a commercial lending institution which does not lease aircraft to the air carrier. "Commercial lending institution" will be defined by appropriate amendment of § 287.1. The exemption will be limited to relationships involving directors of air carriers who are also directors of commercial lending institutions which do not lease aircraft to the air carriers. This is the situation with which petitioners are concerned, and we do not intend to include relationships involving personnel identified with direct management or control of the carrier or lending institution. Since the exemption is experimental in nature and involves some risk of potential conflicts of interest, the exemption shall expire after 3 years. In addition, air carriers qualifying under the exemption will be required to file reports setting forth the extent and nature of interlocking relationships with commercial lending institutions. In this way the Board will be provided with data enabling it to make an informed judgment on the results of the experiment.

In addition to the exemption urged by petitioners, §§ 287.2 and 287.3 will be amended by exempting indirect and direct air carriers, respectively, with respect to interlocking relationships between such carriers and companies which are affiliated with such carriers, provided such affiliation has previously been expressly authorized by the Board by approval under section 408 of the Act, or by exemption therefrom, and is currently so authorized. This amendment represents a logical extension of the regulations in that it will eliminate the need for individual applications in situations where the control issues have been settled and the attendant interlocking relationships are merely an adjunct. An undue burden is imposed on air carriers and individuals in requiring applications for approval of interlocking relationships where the control question has already been approved. No regulatory purpose is served by such requirement, and it necessitates an unwarranted workload on the Board in processing such applications.

Since this amendment is being issued as a final rule, we shall permit interested persons to file petitions for reconsideration. Ten (10) copies of such petitions should be filed with the Docket Section, Civil Aeronautics Board, Room 710, Universal Building, Washington, D.C., 20428, on or before April 15, 1966. Copies of any petition filed will be available for examination by interested persons in the Docket Section. The filing of petitions for reconsideration will not operate to stay the effective date of the rule.

As this amendment broadens the relief provided in the existing regulation, notice and public procedure hereon are unnecessary, and the amendment may be made effective upon less than 30 days' notice.

Accordingly, the Civil Aeronautics Board hereby amends Part 287 of its economic regulations (14 CFR Part 287), effective March 30, 1966, as follows:

1. By amending the table of contents of Part 287 by adding a new § 287.3a to read as follows:

287.3a Exemption of air carriers with respect to interlocking relationships with commercial lending institutions.

2. By modifying § 287.1 by adding a new paragraph (f) to read as follows:

§ 287.1 Definitions.

* * * * *

(f) "Commercial lending institution" means a bank or insurance company which is a person engaged in a phase of aeronautics solely by virtue of engaging in transactions involving the purchase of aircraft and lease thereof to air carriers.

3. By modifying § 287.2 by adding a new paragraph (f) to read as follows:

§ 287.2 Exemption of indirect air carriers with respect to certain interlocking relationships.

* * * * *

(f) Any company which is, directly or indirectly, affiliated with such air carriers, provided such affiliation has previously been expressly authorized by the Board by approval under section 408 of the Act, or by exemption therefrom, and is currently so authorized.

4. By modifying § 287.3 by adding a new paragraph (e) to read as follows:

§ 287.3 Exemption of direct air carriers with respect to certain interlocking relationships.

* * * * *

(e) Any company which is, directly or indirectly, affiliated with such air carrier, provided such affiliation has previously been expressly authorized by the Board by approval under section 408 of the Act, or by exemption therefrom, and is currently so authorized.

5. By adding a new § 287.3a to read as follows:

§ 287.3a Exemption of air carriers with respect to interlocking relationships with commercial lending institutions.

In addition to the exemptions provided in §§ 287.2 and 287.3 of this part, and subject to the other provisions of this part, air carriers are hereby relieved from the provisions of section 409(a) of the Act and Part 251 of this chapter with respect to any interlocking relationship between any such air carrier and a commercial lending institution which does not lease aircraft to the air carrier: *Provided, however,* That such exemption shall expire on March 30, 1969, and shall extend only to the relationship involving a director of the air carrier who is not an officer or employee of the air carrier or a stockholder holding a controlling interest in the air carrier (or the representative or nominee of any such person) and who is not an officer, member or employee of the commercial lending institution: *Provided further,* That in order to qualify for an exemption under this paragraph air carriers shall file with the Bureau of Operating Rights annual reports on or before March 1 of each year showing for the previous calendar year (a) the names and addresses of all directors of the air carrier who were also directors of commercial lending institutions; (b) the names and addresses of such commercial lending institutions; (c) the nature of the aviation activities engaged in by such commercial lending institutions; and (d) a description of all transactions between the air carrier (and/or its officers and directors) and such commercial lending institutions.

(Sections 101(3), 204(a), 409 and 416; 72 Stat. 737, 743, 768 and 771; 49 U.S.C. 1301, 1324, 1379 and 1386)

NOTE: The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

By the Civil Aeronautics Board.[1]

[SEAL] HAROLD R. SANDERSON, *Secretary.*

[F.R. Doc. 66-3389; Filed, Mar. 29, 1966; 8:49 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

SUBCHAPTER A—PROCEDURES AND RULES OF PRACTICE

PART 3—RULES OF PRACTICE FOR ADJUDICATIVE PROCEEDINGS

PART 4—MISCELLANEOUS RULES

Miscellaneous Amendments

The Commission announces the following changes in Part 3 and Part 4 of Chapter I of Title 16 published July 11, 1963 (28 F.R. 7080). The changes to be effective 15 days after date of publication in the FEDERAL REGISTER, and to the extent applicable, to apply to all cases presently pending.

Section 3.16 of Subpart F of Part 3 is amended by adding the following new paragraphs:

§ 3.16 Hearings; transcripts.

* * * * *

(g) *In camera (definition).* Except as hereinafter provided, documents and testimony made subject to in camera orders are not made a part of the public record, but are kept confidential, and only respondents, their counsel, authorized Commission personnel, and court personnel concerned with judicial review shall have access thereto. The right of

[1] This is amendment No. 1 to Part 287, effective Dec. 13, 1961.

the hearing examiner, the Commission, and reviewing courts to disclose in camera data to the extent necessary for the proper disposition of the proceeding is specially reserved.

(h) *In camera treatment of documents and testimony.* Hearing examiners shall have authority, but only in those unusual and exceptional circumstances when good cause is found on the record (see Commission's interlocutory decision in H. P. Hood & Sons, Inc., Docket 7709, March 14, 1961, 58 FTC 1184), to order oral testimony and documents received in evidence to be placed in camera. The order shall specify the date on which in camera treatment expires and shall include (1) a description of the documents and testimony, (2) a full statement of the reasons for granting in camera treatment, and (3) a full statement of the reasons for the date on which in camera treatment expires. Any party desiring, for the preparation and presentation of the case, to disclose in camera documents or testimony to experts, consultants, prospective witnesses, or witnesses, shall make application to the hearing examiner setting forth the justification therefor. The hearing examiner, in granting such application for good cause found, shall enter an order protecting the rights of the affected parties and preventing unnecessary disclosure of information. In camera documents and the transcript of testimony subject to an in camera order shall be segregated from the public record and filed in a sealed envelope, bearing the title and docket number of the proceeding, the notation "In Camera Record under § 3.16," and the date on which in camera treatment expires, and said documents and testimony are to be placed in the public record.

(i) *Release of in camera information.* In camera documents and testimony shall be subject to the provisions of §§ 1.133 and 1.134 of the Commission's statement of General Procedures. However, the Commission, on its own motion without notice to any affected party, may make in camera documents and testimony available for inspection, copying, or use by an agency of the Federal or a State Government.

(j) *Briefing of in camera information.* In the submittal of proposed findings, briefs, or other papers, counsel for all parties should make a good faith attempt to refrain from disclosing the specific details of in camera documents and testimony. This shall not preclude references in such proposed findings, briefs, or other papers to such documents or testimony including generalized statements based on their contents. Separate proposed findings, briefs, or other papers containing detailed in camera information which are filed, are to be marked "confidential", and not made a part of the public record.

Section 3.21(a) of Subpart G of Part 3 is amended to read as follows:

§ 3.21 Initial decision.

(a) *When filed and when effective.* Within ninety (90) days after completion of the reception of evidence in a proceeding (or within thirty (30) days in cases of (1) default under § 3.5(c), or of (2) waiver by the parties of the filing of proposed findings of fact, conclusions of law and order provided for in § 3.19), or within such further time as the Commission may allow by order entered in the record based upon the hearing examiner's written request, the hearing examiner shall file an initial decision which shall become the decision of the Commission thirty (30) days after service thereof upon the parties, unless prior thereto (i) an appeal is perfected under § 3.22; (ii) the Commission by order stays the effective date of the decision; or (iii) the Commission issues an order placing the case on its own docket for review; provided, however, that the failure of an appellant to file an appeal brief within the time prescribed by § 3.22 shall extend for ten (10) days the period within which the Commission may by order stay the effective date of the initial decision or place the case on its own docket for review.

* * * * *

Section 4.4(c) of Part 4 is amended by adding the following new subparagraph (2), and renumbering the present subparagraphs (2) and (3) as (3) and (4):

§ 4.4 Service.

* * * * *

(c) *Proof of Service.* * * *

(2) When a party is represented by a person qualified pursuant to § 4.1(a), and such representative has filed a notice of appearance as required by § 4.1(c), any notice, order, or other process or communication required or permitted to be served upon a person or party shall be served upon such representative in addition to any other service specifically required by statute.

* * * * *

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46; Public Law 89-332 of 1965, Secs. 2 and 3, 79 Stat. 1281)

Issued: March 25, 1966.

By direction of the Commission.

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

[F.R. Doc. 66-3373; Filed, Mar. 29, 1966; 8:48 a.m.]

[Docket C-1044]

PART 13—PROHIBITED TRADE PRACTICES

Goldstein Co., Inc. and Sol L. Goldstein

Subpart—Advertising falsely or misleadingly: § 13.30 *Composition of goods.* 13.30–30 Fur Products Labeling Act; § 13.73 *Formal regulatory and statutory requirements.* 13.73–10 Fur Products Labeling Act; § 13.155 *Prices.* 13.155–15 Comparative. Subpart—Invoicing products falsely: § 13.1108 *Invoicing products falsely.* 13.1108–45 Fur Products Labeling Act. Subpart—Misbranding or mislabeling: § 13.1185 *Composition.* 13.1185–30 Fur Products Labeling Act; § 13.1265 *Old, secondhand, reclaimed, or reconstructed product as new.* § 13.1280 *Price.* § 1325 *Source or origin.* 13.1325–70 Place. Subpart—Misrepresenting oneself and goods—PRICES: § 13.1785 *Comparative.* Subpart—Neglecting, unfairly, or deceptively, to make material disclosure: § 13.1845 *Composition.* 13.1845–30 Fur Products Labeling Act; § 13.1852 *Formal regulatory and statutory requirements.* 13.1852–35 Fur Products Labeling Act; § 13.1880 *Old, used, or reclaimed as unused or new.* 13.1880–40 Fur Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply Sec. 5, 38 Stat. 719, as amended; Sec. 8, 65 Stat. 179; 15 U.S.C. 45, 69f) [Cease and desist order, Goldstein Co., Inc., Birmingham, Ala., Docket C-1044, March 1, 1966]

Consent order requiring a Birmingham, Ala., corporation to cease misbranding, falsely and deceptively invoicing and advertising its fur products and failing to keep adequate records to support its pricing claims.

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

It is ordered, That respondents Goldstein Co., Inc., a corporation, and its officers and Sol L. Goldstein, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, advertising, or offering for sale in commerce, or the transportation or distribution in commerce, of any fur product; or in connection with the sale, advertising, offering for sale, transportation or distribution of any fur product which is made in whole or in part of fur which has been shipped and received in commerce, as the terms "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Misbranding fur products by:

1. Representing, directly or by implication on labels, that any price whether accompanied or not by descriptive terminology is the respondents' former price of fur products when such price is in excess of the price at which such fur products have been sold or offered for sale in good faith by the respondents in the recent regular course of business, or otherwise misrepresenting the price at which such fur products had been sold or offered for sale by respondents.

2. Misrepresenting in any manner on labels or other means of identification the savings available to purchasers of respondents' fur products.

3. Falsely or deceptively labeling or otherwise identifying any such fur product as to the country or origin of furs contained in such fur products.

4. Failing to affix labels to fur products showing in words and in figures plainly legible all of the information required to be disclosed by each of the subsections of section 4(2) of the Fur Products Labeling Act.

5. Failing to disclose that fur products contain or are composed of secondhand used fur.

6. Failing to set forth information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations thereunder in a legible manner, in letters of equal size and conspicuousness.

7. Failing to set forth information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder on labels in the sequence required by Rule 30 of the aforesaid Rules and Regulations.

8. Failing to set forth separately information required under section 5(b)(1) of the Fur Products Labeling Act and rules and regulations promulgated thereunder with respect to each section of fur products composed of two or more sections containing different animal furs.

9. Failing to set forth on labels the item number or mark assigned to a fur product.

B. Falsely or deceptively invoicing fur products by:

1. Failing to furnish invoices, as the term "invoice" is defined in the Fur Products Labeling Act, showing in words and figures plainly legible all the information required to be disclosed in each of the subsections of section 5(b)(1) of the Fur Products Labeling Act.

2. Misrepresenting in any manner on invoices, the country of origin of the fur contained in fur products.

3. Setting forth information required under section 5(b)(1) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder in abbreviated form.

4. Failing to disclose that fur products contain or are composed of secondhand used fur.

5. Failing to set forth on invoices the item number or mark assigned to fur products.

C. Falsely or deceptively advertising fur products through the use of any advertisement, representation, public announcement or notice which is intended to aid, promote or assist, directly or indirectly, in the sale, or offering for sale of any fur product, and which:

1. Fails to set forth in words and figures plainly legible all the information required to be disclosed by each of the subsections of section 5(a) of the Fur Products Labeling Act.

2. Represents, directly or by implication, than any price, whether accompanied or not by descriptive terminology is the respondents' former price of fur products when such price is in excess of the price at which such fur products have been sold or offered for sale in good faith by the respondents in the recent regular course of business, or otherwise misrepresenting the price at which such fur products have been sold or offered for sale by respondents.

3. Misrepresents in any manner the savings available to purchasers of respondents' fur products.

4. Sets forth information required under section 5(a) of the Fur Products Labeling Act and rules and regulations promulgated thereunder in abbreviated form.

5. Fails to set forth the term "natural" as part of the information required to be disclosed in advertisements under the Fur Products Labeling Act and the rules and regulations promulgated thereunder to described fur products which are not pointed, bleached, dyed, tip-dyed or otherwise artificially colored.

D. Making claims and representations of the types covered by subsections (a), (b), (c), and (d) of Rule 44(e) of the rules and regulations promulgated under the Fur Products Labeling Act unless there are maintained by respondents full and adequate records disclosing the facts upon which such claims and representations are based.

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

Issued: March 1, 1966.

By the Commission.

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

[F.R. Doc. 66-3350; Filed, Mar. 29, 1966; 8:46 a.m.]

[Docket C-1045]

PART 13—PROHIBITED TRADE PRACTICES

Levy-Abrams Co. et al.

Subpart—Misbranding or mislabeling: § 13.1185 *Composition.* 13.1185-90 Wool Products Labeling Act; § 1212 *Formal regulatory and statutory requirements.* 13.1212-80 Textile Fiber Products Identification Act; 13.1212-90 Wool Products Labeling Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1845 *Composition.* 13.1845-70 Textile Fiber Products Identification Act; § 13.1852 *Formal regulatory and statutory requirements.* 13.1852-70 Textile Fiber Products Identification Act; 13.1852-80 Wool Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; Secs. 2-5, 54 Stat. 1128-1130; 72 Stat. 1717; 15 U.S.C. 45, 68, 70) [Cease and desist order, Levy-Abrams Co. et al., San Francisco, Calif., Docket C-1045, March 2, 1966]

In the Matter of Levy-Abrams Co., a Partnership, and Julian Levy and Howard Abrams, Individually and as Copartners Trading as Levy-Abrams Co., Calmoor Coats and Nichole of California

Consent order requiring a San Francisco, Calif., partnership to cease misbranding their wool coats and other wool and textile fiber products.

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

It is ordered, That respondents Levy-Abrams Co., a partnership, and Julian Levy and Howard Abrams, individually and as copartners trading as Levy-Abrams Co., Calmoor Coats and Nichole of California or any other name and respondents' representatives, agents, and employees, directly or through any corporate or other device, do forthwith cease and desist from introducing into commerce, or offering for sale, selling, transporting, distributing, or delivering for shipment in commerce, wool coats or other wool products, as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939:

1. Which are falsely or deceptively stamped, tagged, labeled, or otherwise identified as to the character or amount of the constituent fibers contained therein.

2. Unless such products have securely affixed thereto or placed thereon a stamp, tag, label, or other means of identification correctly showing in a clear and conspicuous manner each element of information required to be disclosed by section 4(a)(2) of the Wool Products Labeling Act of 1939.

3. To which are affixed required fiber content labels using the term "mohair" in lieu of the word "wool" in setting forth the required information, unless the fibers described as mohair are entitled to such designation and are present in at least the amount stated.

It is further ordered, That respondents Levy-Abrams Co., a partnership, and Julian Levy and Howard Abrams, individually and as copartners trading as Levy-Abrams Co., Calmoor Coats and Nichole of California or any other name and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction, delivery for introduction, sale, advertising, or offering for sale, in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States, of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, of any textile fiber product which has been advertised or offered for sale in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, after shipment in commerce, of any textile fiber product, whether in its original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from misbranding such textile fiber products by failing to affix labels thereto showing in a clear, legible and conspicuous manner each element of information required to be disclosed by section 4(b) of the Textile Fiber Products Identification Act.

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

and form in which they have complied with this order.

Issued: March 2, 1966.

By the Commission.

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

[F.R. Doc. 66-3351; Filed, Mar. 29, 1966; 8:46 a.m.]

[Docket 8667]

PART 13—PROHIBITED TRADE PRACTICES

Parfumerie Lido, Inc., et al.

Subpart—Furnishing means and instrumentalities of misrepresentation or deception: § 13.1055 *Furnishing means and instrumentalities of misrepresentation or deception.* § 13.1055-50 Pretricketing merchandise misleadingly. Subpart—Passing Off: § 13.2105 *Passing off products as competitor's.* Subpart—Using misleading name—GOODS: § 13.-2300 *Identity.*

(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, Parfumerie Lido, Inc., et al., New York, N.Y., Docket 8667, Feb. 16, 1966]

In the Matter of Parfumerie Lido, Inc., a Corporation, and Alexander S. Salz and Sam Salz, Individually and as Officers of Said Corporation

Order requiring a New York City distributor to cease misleading the public as to the identity of its perfume and other toilet preparations by deceptively labeling the bottles and packages of its products to falsely infer that they are well-known brand name toilet preparations.

The order to cease and desist is as follows:

It is ordered, That respondents Parfumerie Lido, Inc., a corporation, and its officers, and Alexander S. Salz and Sam Salz individually and as officers of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of perfume or other toilet preparations, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(a) Using the letters "C," "A," "WS," or "MS," either singly or in combination, in any manner to designate, identify, or describe such perfumes or other toilet preparations, unless they are in fact genuine Chanel, Arpege, White Shoulders or My Sin, respectively.

(b) Using any other letters, numerals, or symbols, either singly or in combination, suggestive of or associated with the identity of any perfume or toilet preparation, to designate or identify any such product, unless it is in fact the genuine perfume or other toilet preparation thus represented or suggested.

By "Final Order" further order requiring report of compliance is as follows:

It is further ordered, That Parfumerie Lido, Inc., a corporation, and Alexander S. Salz and Sam Salz, individually and as officers of said corporation, shall, within sixty (60) days after service of this order upon them, file with the Commission a report in writing, signed by such respondents, setting forth in detail the manner and form of their compliance with the order to cease and desist.

Issued: February 16, 1966.

By the Commission.

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

[F.R. Doc. 66-3352; Filed, Mar. 29, 1966; 8:46 a.m.]

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

Impropriety of Description "Made in U.S.A." for Kit With Substantial Amount of Foreign Components

§ 15.22 Impropriety of description "Made in U.S.A." for kit with substantial amount of foreign components.

(a) An advisory opinion by the Federal Trade Commission notified a marketer of toys that it would not be permissible to use the labeling description "Made in U.S.A." for a tool kit containing two Japanese components.

(b) The kits will contain 20 items, 18 of American origin and 2 imported from Japan which will represent 16 percent of the total value of the entire kit.

(c) The Commission advised that "the claim, 'Made in U.S.A.' would constitute an affirmative representation that the entire kit was of domestic origin. Since a substantial portion of the components therein would be of foreign origin, the Commission is of the opinion that it would be improper to label the kits as 'Made in U.S.A.'"

(38 Stat. 717, as amended; 15 U.S.C. 41-58)

Issued: March 29, 1966.

By direction of the Commission.

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

[F.R. Doc. 66-3316; Filed, Mar. 29, 1966; 8:45 a.m.]

Title 32A—NATIONAL DEFENSE, APPENDIX

Chapter XVIII—National Shipping Authority, Maritime Administration, Department of Commerce

[NSA Order 6 (INS-1, 8th Revision)]

INS-1—MARINE PROTECTION AND INDEMNITY INSURANCE INSTRUCTIONS UNDER GENERAL AGENCY AND BERTH AGENCY AGREEMENTS

Effective as of March 31, 1966, midnight, e.s.t., INS-1 is hereby revised to read as follows:

Sec.

AUTHORITY: Secs. 1 to 12, issued under sec. 204, 49 Stat. 1987, as amended; 46 U.S.C. 1114.

Sec. 1. Purpose.

Effective as of March 31, 1966, midnight, e.s.t., this order prescribes instructions with respect to the placing of commercial marine protection and indemnity (referred to as "P & I") insurance and the handling of claims of a P & I insurance nature, required to be followed by General Agents and Berth Agents under General Agency Agreements and Berth Agency Agreements, respectively, with the United States of America, acting by and through the Director, National Shipping Authority, Maritime Administration, Department of Commerce (referred to as "Owner").

Sec. 2. Insurer.

Interstate Fire & Casualty Co. (hereinafter referred to as "Underwriter"), entered into an insuring agreement with the owner covering the period from March 31, 1966, midnight, e.s.t., to March 31, 1967, midnight, e.s.t.

Sec. 3. Assured.

The assureds are (a) the United States of America, acting by and through the Director, National Shipping Authority, Maritime Administration, Department of Commerce, and (b) its General Agents and Berth Agents, and Subagents acting on behalf of either.

Sec. 4. Vessels insured and terms of insurance.

The Underwriter has agreed to provide P & I insurance with respect to General Agency vessels operated in the employment of the Military Sea Transportation Service (referred to as "MSTS"), for a period of 1 year from midnight, e.s.t., March 31, 1966, at an annual rate of $3.45 per gross registered ton on a daily pro rata basis, attaching as provided in section 5 (a), (b), (c), (d), and (e) and terminating as of midnight, e.s.t., March 31, 1967, or in accordance with section 5 (c), (f), (g), and (h). This insurance covers the vessel's liability of a P & I insurance nature except for any loss, damage or expense in respect to cargo, including baggage and personal effects of passengers, if any, or cargo's proportion of general average or special charges, or in any other way relating to cargo which is to be carried, is being carried, or has been carried on board such vessels. The limit of liability in any claim shall be $250,000 for each accident or occurrence

per vessel, with a deduction of $1,000 for each accident or occurrence resulting in personal injury, illness, or death, and $500 for each accident or occurrence of other types except "putting in" burial expenses, and damage to docks, buoys, etc. Claims for "putting in," burial expenses, and damage to docks, buoys, etc., are not subject to any deduction. The Underwriter has agreed to accept liability not to exceed $200 for burial expenses.

Sec. 5. Assumption of risk by Owner and attachment and cancellation dates of commercial insurance.

(a) *Vessels allocated and delivered to General Agents at fleet site under General Agency Agreement 3–19–51 (consolidated as of 5–60 and amended 11–65).* When vessels are allocated and delivered to General Agents at fleet site, the Owner will assume the risks of a P & I insurance nature from the date and hour of the vessel's delivery to the General Agent at fleet site to 12:01 a.m. (local time) of the day the vessel is accepted by MSTS, or until 12:01 a.m. (local time) of the date of initial signing on of crew under articles (not the effective date in the event articles are dated prior to or later than the initial signing on), or until 12:01 a.m. (local time) of the day the vessel leaves the reactivation yard for the purpose of undergoing sea trails, whichever shall occur first. As of that time, the P & I risks shall be commercially insured with the Underwriter, and the General Agents shall arrange to have the insurance so attached.

(b) *Vessels delivered from bareboat charter and allocated for operation under General Agency Agreement 3–19–51 (consolidated as of 5–60 and amended 11–65).* When vessels are delivered from bareboat charter and delivered to General Agents for operation under General Agency Agreement 3–19–51 (consolidated as of 5–60 and amended 11–65), the P & I insurance risks shall be commercially insured with the Underwriter and the General Agents shall arrange to have P & I insurance attached as of the date and hour of the vessel's delivery under the Agreement.

(c) *Vessels transferred from one General Agent to another under General Agency Agreement 3–19–51 (consolidated as of 5–60 and amended 11–65).* When a vessel is withdrawn from operation under one General Agent and allocated to another for operation, the respective General Agents shall, unless advised to the contrary, arrange with the Underwriter for the termination and reattachment of P & I insurance as of the respective dates and hours of redelivery and delivery of the vessel from and to the respective General Agents.

(d) *New vessels allocated and delivered under General Agency Agreement 3–19–51 (consolidated as of 5–60 and amended 11–65).* When new vessels are allocated and delivered to General Agents directly from the builder's yard, the General Agents shall, unless advised to the contrary, arrange for commercial P & I insurance with the Underwriter to have the insurance attach as of the date and hour of the vessel's delivery under the Agreement.

(e) *Vessels presently in operation under General Agency Agreement 3–19–51 (consolidated as of 5–60 and amended 11–65).* In respect to the vessels in operation on the effective date of the new P & I insurance contract, the General Agents shall immediately declare such vessels to the Underwriter, and the insurance shall attach on each such vessel in accordance with the new P & I insurance contract as of midnight, e.s.t., March 31, 1966.

(f) *Vessels designated for redelivery.* General Agents shall terminate the commercial P & I insurance on these vessels as of midnight (local time) of the day the vessel is redelivered by MSTS to the General Agent or midnight (local time) of the day the articles are terminated, whichever shall last occur.

(g) *Vessels in reduced operational status and subsequently designated for stripping and lay up.* General Agents shall terminate the commercial P & I insurance on those vessels as of midnight, e.s.t., of the date they receive notice to the effect that the vessels are designated for stripping and lay up.

(h) *Notice of attachment and termination of insurance.* General Agents shall promptly notify the Chief, Division of Insurance, Office of Comptroller, Maritime Administration, Washington, D.C., 20235, of the date and hour of the attachment or of the termination of P & I insurance after either is effected in accordance with paragraphs (a), (b), (c), (d), (e), (f), and (g) of this section.

Sec. 6. Issuance of policies or certificates by Underwriter.

The Underwriter, upon receipt of applications from General Agents, will arrange for execution and delivery of the policies and/or certificates to such General Agents with respect to each vessel named in such applications. The Underwriter will also furnish such copies of policies and/or certificates as may be required by the Owner and the General Agents. The original of all policies and/or certificates shall be promptly forwarded by each General Agent to the Chief, Division of Insurance, Office of Comptroller, Maritime Administration, Department of Commerce, Washington, D.C., 20235. Upon cancellation of this insurance, the Underwriter will issue an endorsement with respect to such cancellation, showing the cancellation date and amount of return premium.

Sec. 7. Insurance premiums.

(a) *Payment of premiums.* Premiums for P & I insurance provided under the policies shall be paid by each General Agent quarterly, in advance, for the period from the date of attachment of such insurance to March 31, 1967, midnight, e.s.t. Brokerage, if any, shall be allowed, but in no event to exceed one-half percent of the annual premiums for each commenced quarter.

(b) *Return premiums.* Each General Agent shall be responsible for collection or obtaining credit for return premiums provided for in the current policy for all vessels insured with the Underwriter pursuant to this order. Such return premiums shall be computed in accordance with the provisions of such policy. Statements or credit memoranda shall be obtained in duplicate from the Underwriter; the originals thereof shall be filed in the General Agent's office subject to inspection by the Owner's auditors, and shall be retained until completion of audit. The duplicate copies thereof shall be forwarded to the Chief, Division of Insurance, Office of Comptroller, Maritime Administration, Washington, D.C., 20235.

Sec. 8. Reports of accidents and occurrences.

(a) *Reports to Underwriter.* All accidents and occurrences of a P & I insurance nature, arising subsequent to the attachment of P & I insurance (as provided in sec. 5) shall be promptly reported by General Agents to the Underwriter, together with all available information. The General Agents shall also obtain the names of the Underwriter's outport representatives and supply such information to the Master of each vessel so that he may report to and/or obtain from these representatives such information and assistance as may be required under the circumstances.

(b) *Reports to Owner.* All accidents and occurrences of a P & I insurance nature, arising prior to the attachment and subsequent to the termination of this insurance (as provided in sec. 5) shall be reported to the Chief, Division of Insurance, Office of Comptroller, Maritime Administration, Washington, D.C., 20235.

Sec. 9. Settlement of claims.

(a) *On risks insured under commercial marine protection and indemnity policies.* General Agents of vessels described are hereby authorized to settle without prior approval, all claims of a P & I insurance nature where the settlement amounts do not exceed the applicable deductions set forth in the P & I policy. When the proposed settlement amounts of such claims exceed the applicable deductions, General Agents shall obtain the Underwriter's approval of the proposed settlements and, immediately after payment in full, or, of any portion thereof over the applicable deductions, make formal claim for reimbursement from the Underwriter. All claims which do not exceed the deduction in the policy are chargeable to vessel expense and shall be accounted for in accordance with current accounting and/or auditing instructions. When settling any claim, the General Agent shall advise the claimant that such settlement is not to be construed as an admission of liability by or on behalf of the Owner, or its General Agents and Berth Agents or their Sub-Agents, but that the settlement is a compromise of a disputed claim. General Agents shall be expected to apply sound judgment and follow standard practices of vessel operators in the settlement or other disposition of P & I claims and shall avail themselves of the advice and assistance of the Underwriter, and may also consult with the appropriate District

Counsel of the Maritime Administration, and the Chief, Division of Insurance, Office of Comptroller, Maritime Administration, Washington, D.C., 20235. Berth Agents shall furnish reports and render all necessary assistance to the General Agents in handling P & I insurance claims. A claim shall be settled only when the amount of the settlement is reasonable under the circumstances, is adequately supported, and is in the best interests of the United States.

(b) *On risks assumed by the Owner.* General Agents are hereby authorized to settle claims of a P & I insurance nature, arising under conditions where the risk is assumed by the Maritime Administration (as set forth in sec. 5) without prior approval, provided the proposed settlement amount of each claim does not exceed $1,000.00. If the proposed settlement amount of any such claim exceeds $1,000.00 the General Agent shall, prior to payment, obtain the approval of the proposed settlement from the Chief, Division of Insurance, Office of Comptroller, Maritime Administration, Washington, D.C., 20235. The amounts and costs of these settlements are chargeable to vessel operating expense and shall be accounted for in accordance with current accounting and/or auditing instructions. When settling any claim hereunder, General Agents shall be governed by the procedure and instructions set forth in paragraph (a) of this section insofar as applicable.

(c) *Claims declined by Underwriters.* Any claim of a P & I insurance nature, whether arising prior or subsequent to March 31, 1966, which has been declined by this Underwriter, or by any other Underwriters under prior insuring agreements, shall be forwarded to the Chief, Division of Insurance, Office of Comptroller, Maritime Administration, Washington, D.C., 20235, for review and further instruction.

Sec. 10. Litigation and employment of counsel.

(a) As to any suit arising out of the activities of a General Agent in the course of his official duties, wherein the General Agent is named a party or one of the parties respondent or defendant, and whether or not the risk is covered by P & I insurance, such General Agent shall immediately, by air mail, forward copies of the pleadings and all other related legal documents to the General Counsel, Maritime Administration, Department of Commerce, Washington, D.C., 20235, and to the Attorney General, Admiralty and Shipping Section, Department of Justice, Washington, D.C., 20530. No General Agent, Berth Agent, or Sub-Agent, shall incur any legal expenses in connection with any claim covered by P & I insurance unless approved in advance by the Underwriter, or in connection with any other claim unless approved in advance by the General Counsel, Maritime Administration, except in an emergency where time will not permit such approval to be obtained.

(b) In addition to the foregoing, in the case of any attachment or seizure of a vessel, whether or not the risk is covered by P & I insurance, the General Agent shall immediately, by telegram, radio, or cable, notify the nearest Maritime Administration representative or the General Counsel, Maritime Administration, Washington, D.C., 20235.

Sec. 11. Report of claims.

(a) All General Agents shall submit to the Chief, Division of Insurance, Office of Comptroller, Maritime Administration, Washington, D.C., 20235, semiannual reports of all claims, listed separately as per the form appearing below.

(b) The first of such reports shall cover the period ending June 30, 1966, and shall be submitted as soon as possible after said date. Subsequent reports shall be made promptly after the conclusion of each semiannual period thereafter. A claim previously reported as closed shall not be reported on subsequent statements unless it is reopened. The reporting requirements of this order have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Sec. 12. Application and interpretation of this order.

General Agents shall communicate directly with the Chief, Division of Insurance, Office of Comptroller, Maritime Administration, Washington, D.C., 20235, regarding all questions of application, interpretation, or intent of this order.

Since the foregoing, without material change, was sent direct to interested persons it is found, for good cause shown, to be impracticable and unnecessary to delay the effective date; therefore, in accordance with section 4 of the Administrative Procedure Act (5 U.S.C. 1003), this Eighth Revision shall be effective as of March 31, 1966, as aforesaid.

Approved: March 24, 1966.

J. W. GULICK,
Acting Director,
National Shipping Authority.

Vessel	Name of injured or claimant	Nature and date of injury, loss, or damage	Amount(s) paid if any	Date and amount of billing to underwriter	Date and amount of reimbursement received from underwriter	Estimated future cost	Status and/or remarks
		Insured claims recorded since last report					
		Insured claims paid or closed since last report					
		Insured claims pending as of date of this report					
		Assumed risk claims recorded since last report					
		Assumed risk claims paid or closed since last report					
		Assumed risk claims pending as of date of this report					

[F.R. Doc. 66-3371; Filed, Mar. 29, 1966; 8:47 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 F—Listing of Color Additives for Drug Use Exempt From Certification

SYNTHETIC IRON OXIDE; CONFIRMATION OF EFFECTIVE DATE

In the matter of listing synthetic iron oxide as a safe color additive for use in or on drugs and exempting it from certification:

1. Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 706 (b), (c), (d), 74 Stat. 399–403; 21 U.S.C. 376 (b), (c), (d)), and in accordance with the authority delegated to the Commissioner of Food and Drugs by the Secretary of Health, Education, and Welfare (21 CFR 2.120; 31 F.R. 3008), notice is given that no objections were filed to the order in the above-identified matter published in the FEDERAL REGISTER of February 11, 1966 (31 F.R. 2653). Accordingly, the regulation promulgated by that order will become effective April 12, 1966.

2. Effective April 12, 1966, § 8.501 *Provisional lists of color additives,* is amended by deleting from paragraph (f) the item "Iron oxides."

(Sec. 706 (b), (c), (d), 74 Stat. 399-403; 21 U.S.C. 376 (b), (c), (d))

Dated: March 23, 1966.

J. K. KIRK,
Assistant Commissioner for Operations.

[F.R. Doc. 66-3405; Filed, Mar. 29, 1966; 8:50 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 202—ANCHORAGE REGULATIONS

San Francisco Bay, Calif.

Pursuant to the provisions of section 7 of the River and Harbor Act of March 4, 1915 (38 Stat. 1053; 33 U.S.C. 471), § 202.224 is hereby amended with respect to paragraph (a)(6) establishing a fairway and redesignating the boundaries of Anchorage 6 in San Francisco Bay, Calif., effective 30 days after publication in the FEDERAL REGISTER, as follows:

§ 202.224 San Francisco Bay, San Pablo Bay, Carquinez Strait, Suisun Bay, San Joaquin River and connecting waters, Calif.

(a) *San Francisco Bay.* * * *

(6) *Anchorage 6 (general).* Bounded by the easterly shore of San Francisco Bay and the following lines: Beginning at the shore at the southernmost extremity of Point Isabel; thence along the northerly shore of Brooks Island to the training wall extending westerly therefrom; thence westerly along the training wall to its bayward end; thence to a point bearing 104°, 1,035 yards, from Treasure Island North End Light; thence along a line bearing 144°30′ to a point 290 yards northerly of the center of Pier K of the San Francisco-Oakland Bay Bridge; thence along a line bearing 71° to the shore; excluding from this area however, the cable areas therein and a fairway delineated by lines joining the following points:

Latitude	*Longitude*
37°51′50″	122°19′01″
37°51′48″	122°19′08″
37°51′51″	122°19′10″
37°50′50″	122°22′03″
37°51′00″	122°22′07″
37°52′00″	122°19′15″
37°52′04″	122°19′17″
37°52′08″	122°19′08″
37°52′02″	122°19′03″
37°51′58″	122°19′02″

* * * * *

[Regs., March 16, 1966, 1507-32 (San Francisco Bay, Calif.)-ENGCW-ON] (sec. 7, 38 Stat. 1053; 33 U.S.C. 471)

J. C. LAMBERT,
Major General, U.S. Army, The Adjutant General.

[F.R. Doc. 66-3339; Filed, Mar. 29, 1966; 8:45 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 9—Atomic Energy Commission

PART 9-12—LABOR

Subpart 9-12.9—Service Contract Act of 1965

Subpart 9-12.54—Conduct of Employees and Consultants of AEC Cost-Type Contractors and Certain Other Contractors

MISCELLANEOUS AMENDMENTS

1. The following subpart is added:

Subpart 9-12.9—Service Contract Act of 1965

Sec.

AUTHORITY: The provisions of this subpart 9-12.9 issued under sec. 161, Atomic Energy Act of 1954, as amended, 68 Stat. 948, 42 U.S.C. 2001; sec. 205, Federal Property and Administrative Services Act of 1949, as amended, 63 Stat. 390, 40 U.S.C. 486.

§ 9-12.902 Applicability.

The Service Contract Act of 1965 is not applicable to contracts for the operation and management of AEC facilities. However, subcontracts awarded by contractors operating and managing AEC facilities are subject to the Act to the same extent and under the same conditions as contracts made directly by AEC.

§ 9-12.904 Contract clauses.

§ 9-12.904-1 Clause for Federal service contracts in excess of $2,500.

Subcontracts awarded by contractors operating and managing AEC facilities shall include the clause in FPR 1-12.904-1 with appropriate modifications (e.g., substitutions of "operating contractor" for "Contracting Officer" and "Government"; "subcontractor" for "Government Prime Contractor" and "Contractor"; and "sub-contractor" for "subcontractor").

§ 9-12.904-2 Clause for Federal service contracts not exceeding $2,500.

Subcontracts awarded by contractor operating and managing AEC facilities shall include the clause in FPR 1-12.904-2 with appropriate modifications (e.g., substitution of "subcontractor" for "Contractor" and "sub-subcontractor" for "subcontractor").

2. Section 9-12.5406 Allowable and unallowable costs, is revised to read as follows:

§ 9-12.5406 Allowable and unallowable costs.

Reference should be made to AECPR 9-7.5006-9 (d)(3) and (e)(26), AECPR 9-7.5006-10 (d)(3) and (e)(24), AECPR 9-7.5006-11 and AECPR 9-7.5006-12 (d)(3) and (e)(25) for additional contract provisions concerning allowable and unallowable costs in connection with obtaining consultant services.

Effective date. These amendments are effective upon publication in the FEDERAL REGISTER.

Dated at Germantown, Md., this 23d day of March 1966.

For the U.S. Atomic Energy Commission.

JOSEPH L. SMITH,
Director, Division of Contracts.

[F.R. Doc. 66-3314; Filed, Mar. 29, 1966; 8:45 a.m.]

Title 50—WILDLIFE AND FISHERIES

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

PART 28—PUBLIC ACCESS, USE, AND RECREATION

Moosehorn National Wildlife Refuge, Maine

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 28.28 Special regulations; recreation; for the individual wildlife refuge areas.

MAINE

MOOSEHORN NATIONAL WILDLIFE REFUGE

Entry on foot or by motor vehicle is permitted unless prohibited by posting, for the purpose of nature study, photography, hiking and sightseeing, during daylight hours. Pets are allowed if on a leash not over 10 feet in length. Fishing is permitted under special regulations. Public hunting under special regulations may be permitted on parts of the refuge. All persons shall comply with all local, State, and Federal laws, ordinances, and regulations.

The refuge area, comprising approximately 22,500 acres, is delineated on maps available at refuge headquarters and from the Office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office and Courthouse, Boston, Mass., 02109.

The provisions of this special regulation supplement the regulations which govern recreation on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 28, and are effective through December 31, 1966.

RICHARD E. GRIFFITH,
Regional Director, Bureau of Sport Fisheries and Wildlife.

MARCH 22, 1966.

[F.R. Doc. 66-3353; Filed, Mar. 29, 1966; 8:46 a.m.]

PART 28—PUBLIC ACCESS, USE, AND RECREATION

Iroquois National Wildlife Refuge, N.Y.

The following special regulation is issued and is effective on the date of publication in the FEDERAL REGISTER.

§ 28.28 Special regulations: recreation; for the individual wildlife refuge areas.

NEW YORK

IROQUOIS NATIONAL WILDLIFE REFUGE

Entry on foot or by motor vehicle is permitted unless prohibited by posting, for the purpose of nature study, photography, hiking, and sightseeing, during daylight hours. Pets are allowed if on a leash not over 10 feet in length. Fishing is permitted under special regulations. Public hunting under special regulations may be permitted on parts of the refuge. All persons shall comply with all local, State, and Federal laws, ordinances, and regulations.

The refuge area, comprising 10,783 acres, is delineated on maps available at refuge headquarters and from the Office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office and Courthouse, Boston, Mass., 02109.

The provisions of this special regulation supplement the regulations which govern recreation on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 28, and are effective through December 31, 1966.

RICHARD E. GRIFFITH,
Regional Director, Bureau of Sport Fisheries and Wildlife.

MARCH 23, 1966.

[F.R. Doc. 66-3354; Filed, Mar. 29, 1966; 8:46 a.m.]

PART 28—PUBLIC ACCESS, USE, AND RECREATION

Erie National Wildlife Refuge, Pa.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 28.28 Special regulations: recreation; for the individual wildlife refuge areas.

PENNSYLVANIA

ERIE NATIONAL WILDLIFE REFUGE

Entry on foot or by motor vehicle is permitted unless prohibited by posting, for the purpose of nature study, photography, hiking and sightseeing, during daylight hours. Pets are allowed if on a leash not over 10 feet in length. Picnicking is permitted from 6:00 a.m. to 9:30 p.m., May 30 to October 15, in the area designated by signs. Fishing is permitted under special regulations. Public hunting under special regulations may be permitted on parts of the refuge. All persons shall comply with all local, State, and Federal laws, ordinances, and regulations.

The refuge area, comprising 4,251 acres, is delineated on maps available at refuge headquarters and from the Office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office and Courthouse, Boston, Mass., 02109.

The provisions of this special regulation supplement the regulations which govern recreation on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 28, and are effective through December 31, 1966.

RICHARD E. GRIFFITH,
Regional Director, Bureau of Sport Fisheries and Wildlife.

MARCH 22, 1966.

[F.R. Doc. 66-3355; Filed, Mar. 29, 1966; 8:46 a.m.]

Proposed Rule Making

DEPARTMENT OF THE INTERIOR

Oil Import Administration

[32A CFR Ch. X]

[Oil Import Reg. 1, Rev. 4]

ALLOCATIONS TO PETROCHEMICAL PLANTS

Notice of Proposed Rule Making

In the FEDERAL REGISTER for December 15, 1965 (30 F.R. 15434), the Administrator, Oil Import Administration, gave notice of a proposal for making allocations in Districts I–IV and District V of imports of crude oil and unfinished oils to persons having petrochemical plants in these districts. Comments were received from 28 companies. There was some opposition to the proposal as such; i.e., granting allocations to petrochemical plants, but the Department remains of the view that the making of such allocations will be in the interest of equity and competitive capability. However, in view of the comments received it was determined that considerable revision of the original plan was necessary. Accordingly, in an effort to provide the most equitable program possible and to afford the public an opportunity to participate in the rule making process the following proposal is again published as a notice of proposed rule making.

Under the new proposal allocations will be granted to all persons having petrochemical plants as defined and who produce petrochemicals, as defined, from unfinished oils. However, in order to maintain an equitable balance for all persons producing unfinished oils, particularly ethylene, propylene and butylenes, the definition of refinery inputs has been expanded to include liquefied gases recovered from natural gas. The definition of liquefied gases has been revised to reflect the fact that ethylene is within the class as described in the latest amendment to Proclamation 3279.

Petrochemical plant inputs have been defined to eliminate so far as possible the pyramiding of petrochemical plant inputs.

Persons with petrochemical plants would receive an allocation of crude oil and unfinished oils equal to approximately the percentage ratio that total imports of crude oil and unfinished oils which are available for allocation in the respective districts bears to the total of refinery inputs and petrochemical plant inputs in the respective districts during the base period.

Interested persons may submit written comments, suggestions, or objections with respect to the proposed plan to the Administrator, Oil Import Administration, Washington, D.C., 20240, within 20 days from the date of publication of this notice in the FEDERAL REGISTER.

ELMER L. HOEHN,
Administrator,
Oil Import Administration.

1. Paragraph (a) of section 4 of Oil Import Regulation 1 (Rev. 4) (28 F.R. 14318) would be amended to read as follows:

Sec. 4 Eligibility for allocations.

(a) To be eligible for an allocation of imports of crude oil and unfinished oils in Districts I–IV or in District V, a person must (1) have either refinery capacity or a petrochemical plant in the respective districts and (2) have had either refinery inputs or petrochemical plant inputs in the respective districts for the year ending 3 months prior to the beginning of the allocation period for which the allocation is requested.

* * * * *

2. Section 5 of Oil Import Regulation 1 (Rev. 4) (28 F.R. 14318) would be amended to read as follows:

Sec. 5. Applications for allocations and licenses.

Except with respect to an application for an allocation to a person having a petrochemical plant for the current allocation period and an application for an allocation pursuant to paragraph (c) of section 15, an application for allocation of imports of crude oil, unfinished oils, or finished products and for a license or licenses must be filed with the Administrator, in such form as he may prescribe, not later than 60 calendar days prior to the beginning of the allocation period for which the allocation is required. However, if the 60th day is a Saturday, Sunday, or holiday, the application may be filed on the next succeeding business day. Allocation periods are provided for in section 3 of this regulation. Applications for allocations of imports of crude oil and unfinished oils to persons having petrochemical plants for the allocation period January 1, 1966, through December 31, 1966, must be filed with the Administrator, in such form as he may prescribe on or before (designated date) unless the time is extended by the Administrator.

3. The first sentence of section 6 of Oil Import Regulation 1 (Rev. 4) (28 F.R. 14318) would be amended to read as follows:

Sec. 6. Records and inspections.

All persons receiving allocations pursuant to these regulations shall maintain complete records of imports, refinery inputs, petrochemical plant inputs and the outputs of such plants, and terminal inputs. * * *

4. Section 17 of Oil Import Regulation 1 (Rev. 4) (29 F.R. 8170) would be amended to read as follows:

Sec. 17 Use of imported crude oil and unfinished oils.

(a) Except as provided in paragraph (b) of this section, each person who imports crude oil or unfinished oils under a license issued pursuant to an allocation made (1) under sections 10, 11, or 15 of this regulation must process the oils so imported in his own refinery or (2) under section 25 of this regulation must process the oils so imported in his own petrochemical plant.

(b) (1) Subject to the provisions of this paragraph (b), a person who imports crude oil or unfinished oils under an allocation made under sections 10, 11, or 25, or paragraph (a) of section 15 of this regulation may exchange his imported crude oil either for domestic crude oil or for domestic unfinished oils or exchange his imported unfinished oils either for domestic unfinished oils or for domestic crude oil. However, a person receiving an allocation under section 25 may be restricted in the exchange of imported unfinished oils, as provided in paragraph (c) of that section.

(2) A proposed agreement for each such exchange must be reported to the Administrator before any action involved in the exchange is taken.

(3) Each such exchange must be effected on a ratio of not less than one barrel of domestic oil for each barrel of imported oil unless a different exchange ratio is approved by the Administrator.

(4) In any such exchange, the person who is exchanging oil imported pursuant to an allocation under section 10, 11 or 15 for domestic oil must take delivery of the domestic oil and process it in his own refinery not later than 120 days after the day on which the imported oil is delivered to the other party to the exchange. Also, a person who is exchanging oil imported pursuant to an allocation under section 25 for domestic oil must take delivery of the domestic oil and process it in his own petrochemical plant not later than 120 days after the day on which the imported oil is delivered to the other party to the exchange.

(5) Each such exchange must be on an oil-for-oil basis, and no exchange involving adjustments, settlements, or accounting on a monetary basis is permissible.

(6) Any such exchange must not be otherwise unlawful.

5. Paragraph (g) (1) (30 F.R. 16081) and paragraph (k) (28 F.R. 14322) of section 22 of Oil Import Regulation 1 (Revision 4) would be amended to read as follows and paragraphs (n), (o), and (p), reading as follows, would be added to that section:

Sec. 22. Definitions.

* * * * *

(g) * * *

(1) Liquefied gases—hydrocarbon gases such as ethane, propane, butanes,

ethylene, propylene, and butylenes (but not methane), which are recovered from natural gas or produced in the refining of petroleum and which, to be maintained in a liquid state at ambient temperatures, must be kept under greater than atmospheric pressures;

* * * * *

(k) "Refinery inputs" means refinery feedstocks:

(1) And include only:

(i) Crude oil

(ii) Imported unfinished oils and

(iii) Liquefied gases which are recovered from natural gas

(2) But do not include, for the purpose of computing allocations under section 10 or section 11 of this regulation, any crude oil or unfinished oils which are imported into the United States by pipeline, rail, or other means of overland transportation from the country where they were produced, which country, in the case of unfinished oils, is also the country of production of the crude oil from which the unfinished oils were processed or manufactured.

* * * * *

(n) "Petrochemical plant" means a facility or a unit or group of units within a facility to which petrochemical plant inputs are charged and in which more than 50 percent (by weight) of such inputs are converted by chemical reactions into petrochemicals.

(o) "Petrochemical plant inputs" means unfinished oils other than:

(1) Unfinished oils which are imported into the United States by pipeline, rail, or other means of overland transportation from the country where they were produced, which country is also the country of production of the crude oil from which the unfinished oils were processed or manufactured, and

(2) Unfinished oils produced in a petrochemical plant as a byproduct in the manufacture of petrochemicals and subsequently recharged to the same petrochemical plant in which they were produced.

(p) "Petrochemicals" means organic compounds or chemical elements, other than unfinished oils or finished products, produced from petrochemical plant inputs by chemical reaction.

6. A new section 25, reading as follows, would be added to Oil Import Regulation 1 (Rev. 4):

Sec. 25 Allocations of crude oil and unfinished oils to persons having petrochemical plants in Districts I–IV and District V.

(a) For the allocation period January 1, 1966, through December 31, 1966, the quantity of imports of crude oil and unfinished oils available for allocation in District I–IV was 722,916 B/D. Of this quantity 30,000 B/D were set aside for allocation to persons having petrochemical plants in these districts in relation to petrochemical plant inputs. Each person with a petrochemical plant in Districts I–IV shall receive an allocation of crude oil and unfinished oils which equals the quantity of petrochemical plant inputs, in barrels at 60° Fahrenheit, which he charged to his petrochemical plant or plants in those districts during the year ending September 30, 1965, multiplied by the percentage ratio that imports of crude oil and unfinished oils, subject to allocation, into these districts bore to refinery inputs and petrochemical plant inputs in these districts during the year ending September 30, 1965. (Estimated ratio—9 percent.) However, the Administrator may adjust this percentage upward or downward as necessary in order to allocate 30,000 B/D ratably among those eligible applicants filing timely applications.

(b) For the allocation period January 1, 1966, through December 31, 1966, the quantity of imports of crude oil and unfinished oils available for allocation in District V was 229,321 B/D. Of this quantity 2,000 B/D were set aside for allocation to persons having petrochemical plants in this district in relation to petrochemical plant inputs. Each person with a petrochemical plant in District V shall receive an allocation of crude oil and unfinished oils which equals the quantity of petrochemical plant inputs, in barrels at 60° Fahrenheit, which he charged to his petrochemical plant or plants in that district during the year ending September 30, 1965, multiplied by the percentage ratio that imports of crude oil and unfinished oils, subject to allocation, into this district bore to refinery inputs and petrochemical plant inputs in this district during the year ending September 30, 1965. (Estimated ratio—17.5 percent.) However, the Administrator may adjust this percentage upward or downward as necessary in order to allocate 2,000 B/D ratably among those eligible applicants filing timely applications.

(c) No allocation made pursuant to paragraphs (a) and (b) of this section shall entitle a person to a license which will allow the importation of unfinished oils in excess of 10 percent of the allocation. However, a person obtaining an allocation for crude oil or unfinished oils pursuant to this section may petition the Administrator to adjust this percentage of imports of unfinished oils upward to 100 percent of such person's allocation if the petitioner certifies that the imported unfinished oils will not be exchanged, that the oils will be run entirely in the petitioner's own petrochemical plant, and that not less than 50 percent of the yields (by weight) from the unfinished oils will be petrochemicals.

(d) No allocation made pursuant to this section may be sold, assigned, or otherwise transferred.

[F.R. Doc. 66-3357; Filed, Mar. 29, 1966; 8:46 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 121]

FOOD ADDITIVES

Natural Flavoring Substances and Natural Substances Used in Conjunction With Flavors; Proposed To List Additional Safe Additives

A notice published in the FEDERAL REGISTER of June 9, 1964 (29 F.R. 7427), proposed the establishment of a food additive regulation to prescribe the safe use of natural flavoring substances and natural substances used in conjunction with flavors. The order establishing this regulation (21 CFR 121.1163) was published in the FEDERAL REGISTER of January 30, 1965 (30 F.R. 992).

The Commissioner of Food and Drugs, having concluded that additional flavoring substances are safe in the prescribed use, proposes to amend the food additive regulations to provide for the safe use of these substances and proposes to modify the current limitations which restrict use of several previously regulated flavoring substances in alcoholic beverages. The same criteria for concluding the safety of these substances were applied as in the case of those proposed June 9, 1964. Data in a petition (FAP 4A1318) filed by Federazione Italiana Industrie, Vini e. Liquori, and International Vermouth Institute, both c/o Buchman & Buchman, 292 Madison Avenue, New York, N.Y., 10017, and Wine Institute, National Press Building, Washington, D.C., 20004, were evaluated and serve in part as a basis for the above proposals.

The Commissioner further proposes that the thujone limitation for previously regulated substances be expressed as "thujone free," such determination to be made by an analytical method sensitive to at least 10 parts per million.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(d), 72 Stat. 1787; 21 U.S.C. 348(d)), and under the authority delegated to him by the Secretary of Health, Education, and Welfare (21 CFR 2.120; 31 F.R. 3008), the Commissioner proposes that § 121.1163(b) be amended by changing the table in the following respects:

1. By deleting the limitation, "In alcoholic beverages only," from the following items: "Arnica flowers;" "Artemisia (wormwood)," "Pennyroyal, European;" and "Thistle, blessed."

2. By inserting, alphabetically, new items and by changing the expression of thujone limitation for the items "Artemisia (wormwood)," "Cedar, white * * *," "Oak moss," and "Yarrow," as follows:

Common name	Scientific name	Limitations
Aloe	*Aloe perryi* Baker, *A. barbadensis* Mill., *A. ferox* Mill., and hybrids of this sp. with *A. africana* Mill. and *A. spicata* Baker.	
Angola weed	*Roccella fuciformis* Ach	In alcoholic beverages only.
Artemisia (wormwood)	*Artemisia* spp	Thujone free.
Boldus (boldo) leaves	*Peumus boldus* Mol	In alcoholic beverages only.
Bryonia root	*Bryonia alba* L., or *B. dioica* Jacq	Do.
Castor oil	*Ricinus communis* L	
Cedar, white (arborvitae), leaves and twigs.	*Thuja occidentalis* L	Thujone free.
Chestnut leaves	*Castanea dentata* (Marsh.) Borkh	
Cork, oak	*Quercus suber* L., or *Q. occidentalis* F. Gay	In alcoholic beverages only.
Damiana leaves	*Turnera diffusa* Willd	
Dragon's blood (dracorubin)	*Daemonorops* spp	
Lungmoss (lungwort)	*Sticta pulmonacea* Ach	
Melilotus (yellow melilot)	*Melilotus officinalis* (L.) Lam	In alcoholic beverages only.
Oak moss	*Evernia prunastri* (L.) Ach., *E. furfuracea* (L.) Mann, and other lichens.	Thujone free.
Opopanax (bisabolmyrrh)	*Opopanax chironium* Koch (true opopanax) or *Commiphora erythraea* Engl. var. *glabrescens.*	
Passion flower	*Passiflora incarnata* L	
Pine, white oil	*Pinus palustris* Mill. and other *Pinus* spp	
Quillaia (soapbark)	*Quillaja saponaria* Mol	
Red saunders (red sandalwood).	*Pterocarpus santalinus* L. f	In alcoholic beverages only.
Rosin (colophony)	*Pinus palustris* Mill. and other *Pinus* spp	Do.
Sandarac	*Tetraclinis articulata* (Vahl.) Mast	Do.
Tansy	*Tanacetum vulgare* L	In alcoholic beverages only; thujone free.
Walnut husks (hulls), leaves, and green nuts.	*Juglans nigra* L. or *J. regia* L	
Yarrow	*Achillea millefolium* L	In beverages only; thujone free.
Yerba santa	*Eriodictyon californicum* (Hook. et Arn.) Torr	

Any interested person may, within 30 days from the date of publication of this notice in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C., 20201, written comments, preferably in quintuplicate, on this proposal. Comments may be accompanied by a memorandum or brief in support thereof.

Dated: March 22, 1966.

J. K. KIRK,
Assistant Commissioner for Operations.

[F.R. Doc. 66-3406; Filed, Mar. 29, 1966; 8:50 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Part 71]

[Airspace Docket No. 65-AL-19]

TRANSITION AREA

Proposed Designation

The Federal Aviation Agency is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate a transition area for the Cordova, Alaska, Airport to be described as follows:

That airspace extending upward from 700 feet above the surface within 5 miles northwest and 8 miles southeast of the Cordova R.R. southwest course extending from 8 miles southwest of the Cordova R.R. to 13 miles southwest of the intersection of the southwest course of the Cordova R.R. and the east course of the Hinchinbrook R.R.; and that airspace extending upward from 1,200 feet above the surface within 5 miles northeast and 8 miles southwest of the Cordova R.R. southeast course extending from 13 miles southeast of the Cordova R.R. to 13 miles southeast of the intersection of the southeast course of the Cordova R.R. and the east course of the Hinchinbrook R.R.; within 8 miles north and 5 miles south of the Hinchinbrook R.R. east/west courses extending from 7 miles west to 13 miles east of the Hinchinbrook R.R.

As parts of these proposals relate to the navigable airspace outside the United States, this notice is submitted in consonance with the ICAO International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices, by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 and Annex 11 to the Convention on International Civil Aviation (ICAO), which pertains to the establishment of air navigation facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Its purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Alaskan Region, Attention: Chief, Air Traffic Division, Federal Aviation Agency, 632 Sixth Avenue, Anchorage, Alaska, 99501. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Agency, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C., 20553. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The proposed transition area would provide protection for aircraft executing prescribed arrival, departure, missed approach procedures, and holding procedures.

This amendment is proposed under the authority of secs. 307(a) and 1110 of the Federal Aviation Act of 1958 (49 U.S.C. 1348 and 1510), and Executive Order 10854 (24 F.R. 9565).

Issued in Washington, D.C., on March 23, 1966.

H. B. HELSTROM,
Acting Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 66-3345; Filed, Mar. 29, 1966; 8:45 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 65-EA-87]

CONTROL AREA

Proposed Alteration

The Federal Aviation Agency is considering amendments to Part 71 of the Federal Aviation Regulations that would accomplish the following:

1. Control 1144 would be redescribed as that airspace east of Nantucket within an area bounded by a line extending from latitude 41°06'00'' N., longitude 70°09'-10'' W., to latitude 41°25'35'' N., longitude 70°09'35'' W., to latitude 41°26'00'' N., longitude 69°15'00'' W., to latitude 41°46'00'' N., longitude 68°00'00'' W., to latitude 41°06'00'' N., longitude 68°00'-00'' W., to the point of beginning.

2. Redescribe the "Cod INT" as intersection of the 089° bearing from the Nantucket, Mass., CONSOLAN and the west boundary of the New York Oceanic Control Area, at latitude 41°16'50'' N., longitude 68°00'00'' W.

In addition, the following nonregulatory action would be made to redescribe Warning Area W-506:

Beginning at latitude 41°06'00" N., longitude 69°40'00" W., to latitude 41°06'00" N., longitude 68°00'00" W., to latitude 41°00'-00" N., longitude 68°00'00" W., to latitude 39°53'30" N., longitude 68°57'00" W., to latitude 40°48'10" N., longitude 69°40'00" W., to the point of beginning.

As parts of these proposals relate to the navigable airspace outside the United States, this notice is submitted in consonance with the ICAO International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices, by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 and Annex 11 to the Convention on International Civil Aviation (ICAO), which pertains to the establishment of air navigation facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Its purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices of Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Agency, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y., 11430. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Agency, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C., 20553. An informal docket also will be available for examination at the Office of the Regional Air Traffic Division Chief.

The alteration of Control 1144 would provide controlled airspace for routing overseas air traffic between the New York Oceanic Control boundary and Nantucket via a track of 089° True from the Nantucket Consolan to a position located at latitude 41°14'00" N., longitude 64°20'00" W. The nonrulemaking redescription of W-506 will lower the northern boundary of this warning area to permit the southern alignment of Control 1144. The redescribed "Cod INT" would position this reporting point on the 089° T bearing of the Nantucket CONSOLAN at the New York Oceanic boundary.

These amendments are proposed under the authority of sections 307(a) and 1110 of the Federal Aviation Act of 1958 (49 U.S.C. 1348, 1510) and Executive Order 10854 (24 F.R. 9565).

Issued in Washington, D.C., on March 23, 1966.

H. B. HELSTROM,
Acting Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 66-3346; Filed, Mar. 29, 1966; 8:45 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 65-WE-49]

TRANSITION AREA

Proposed Designation

The Federal Aviation Agency is considering an amendment to Part 71 of the Federal Aviation Regulations and proposes the following airspace action in the Grand Canyon, Ariz., terminal area:

Designate the Grand Canyon transition area as that airspace extending upward from 700 feet above the surface within a 3-mile radius of Grand Canyon National Park Airport (latitude 35°57'10" N., longitude 112°08'35" W.), and within 2 miles each side of the Grand Canyon VOR 211° radial extending from the 3-mile radius area to 8 miles SW of the VOR; and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 36°00'00" N., longitude 112°27'00" W., to latitude 36°05'00" N., longitude 112°-00'00" W., to latitude 35°42'00" N., longitude 112°00'00" W., to latitude 35°42'-00" N., longitude 112°07'00" W., to latitude 35°38'00" N., longitude 112°07'00" W., to latitude 35°38'00" N., longitude 112°27'00" W., thence to point of beginning.

The 700-foot portion of the proposed transition area is to provide protection for aircraft executing the instrument approach procedure proposed for the Grand Canyon National Park Airport (latitude 35°57'10" N., longitude 112°08'35" W.). The procedure will be based upon the Grand Canyon VOR which will be commissioned on or about July 6, 1966. The 1,200 foot-portion of the proposed transition area is required to provide controlled airspace for aircraft executing proposed holding and departure procedures within the designated area.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Agency, 5651 West Manchester Avenue, Post Office Box 90007, Airport Station, Los Angeles, Calif., 90009. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Agency, 5651 West Manchester Avenue, Los Angeles, Calif., 90045.

This amendment is proposed under the authority of sec. 307(a) of the Federal Aviation Act of 1958, as amended (72 Stat. 749; 49 U.S.C. 1348).

Issued in Los Angeles, Calif., on March 21, 1966.

LEE E. WARREN,
Acting Director, Western Region.

[F.R. Doc. 66-3347; Filed, Mar. 29, 1966; 8:45 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 65-WE-102]

CONTROL ZONE AND TRANSITION AREA

Proposed Designation

The Federal Aviation Agency is considering amendments to Part 71 of the Federal Aviation Regulations which would designate controlled airspace in the Flagstaff, Ariz., terminal area.

Approximately September 1, 1966, the Federal Aviation Agency will commission the Flagstaff VORTAC, located on the Pulliam Airport, Flagstaff, Ariz. To provide controlled airspace for instrument flight operations utilizing the new facility, the FAA proposes the following airspace actions:

1. Designate the Flagstaff, Ariz., control zone as that airspace within a 5-mile radius of Pulliam Airport (latitude 35°08'16" N., longitude 111°40'17" W.), within 2 miles each side of the Flagstaff VORTAC 084° radial, extending from the 5-mile radius zone to 11.5 miles E of the VORTAC, within 2 miles each side

of the Flagstaff VORTAC 096° radial, extending from the 5-mile radius zone to 7.5 miles E of the VORTAC, and within 2 miles each side of the Flagstaff VORTAC 189° radial extending from the 5-mile radius zone to 7.5 miles S of the VORTAC.

2. Designate the Flagstaff, Ariz., transition area as that airspace extending upward from 700 feet above the surface within a 10-mile radius of Pulliam Airport (latitude 35°08'16" N., longitude 111°40'17" W.); that airspace extending upward from 1,200 feet above the surface within an arc of a 26-mile radius circle centered on the Flagstaff VORTAC (latitude 35°08'50" N., longitude 111°40'24" W.), extending from a line 5 miles NW of and parallel to the Flagstaff VORTAC 054° radial clockwise to a line 5 miles N of and parallel to the Flagstaff VORTAC 297° radial, and within 9 miles N and 6 miles S of the Flagstaff VORTAC 096° radial extending from the 26-mile radius arca to 35 miles E of the VORTAC, excluding the portion within R-2302.

Designation of the control zone and transition area as proposed, would provide protection for aircraft executing instrument approach, departure and holding procedures based on the new facility.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Agency, 5651 West Manchester Avenue, Post Office Box 90007, Airport Station, Los Angeles, Calif., 90009. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public Docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Agency, 5651 West Manchester Avenue, Los Angeles, Calif., 90045.

This amendment is proposed under the authority of sec. 307(a) of the Federal Aviation Act of 1958, as amended (72 Stat. 749; 49 U.S.C. 1348).

Issued in Los Angeles, Calif., on March 21, 1966.

LEE E. WARREN,
Acting Director, Western Region.

[F.R. Doc. 66-3348; Filed, Mar. 29, 1966; 8:46 a.m.]

[14 CFR Part 91]

[Docket No. 7247; Notice 66-8]

PORTABLE ELECTRONIC DEVICES

Notice of Proposed Rule Making

The Federal Aviation Agency has under consideration an amendment to section 91.19 of the Federal Aviation Regulations to prohibit the use of certain electronic devices aboard aircraft during flight.

Interested persons are invited to participate in the making of the proposed rules by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the Federal Aviation Agency, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C., 20553. All communications received on or before May 16, 1966, will be considered by the Administrator before taking action upon the proposed rules. The proposals contained in the notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

In 1961, tests were conducted by this Agency, that showed radio receivers having local oscillators operating within or near the VHF omnirange (VOR) frequency band (108 to 118 mcs.) caused interference that adversely affected the operation of an aircraft's VOR navigation system. At that time it was determined that the only portable electronic device commonly used by the general public, that would cause the interference, was the portable frequency modulation (FM) radio receiver. Accordingly, SR-446 (recodified as § 91.19) was issued effective May 25, 1961, prohibiting the use of portable FM radio receivers aboard all U.S. air carrier aircraft and aboard all U.S. registered aircraft when the VOR receiver was being used for navigational purposes.

Subsequently, in April of 1965, the Agency began testing various other portable electronic devices, including electronic converters and "antibug devices" to determine if they had any adverse effect on aircraft navigation and communication equipment. It was determined after extensive study that these devices when operated aboard aircraft would also affect the aircraft navigation and communication systems. In addition to the foregoing devices, it appears that there are many other portable electronic devices that are potentially hazardous to aircraft navigation and communication equipment. These devices include VHF radio receivers, portable TV receivers, citizen band transmitters, and various types of portable test equipment, all of which under certain conditions create a more serious interference problem than FM radio receivers. On the other hand, some devices such as portable recorders, hearing aids, heart pacers, and electric shavers do not create any adverse effect upon the aircraft's electronic systems.

Because of the possible interference with aircraft equipment, airline agreements embodied in resolutions of the Traffic Conferences of the International Air Transport Association have been approved by the Civil Aeronautics Board which prohibit the operation by a passenger of portable radio receivers, transmitters and television receivers aboard aircraft of the members of that association. It is to be noted that the resolutions permit the use of recorders, hearing aids, heart pacemakers, and other electronic devices when special authority is given for their use by the air carrier concerned.

In order to protect U.S. registered aircraft from the hazards that may be caused by the operation of portable electronic devices aboard those aircraft, it is proposed to extend the scope of § 91.19 to prohibit the operation of any portable electronic device except recorders, hearing aids, heart pacers and electric shavers. The proposal also excepts other portable electronic devices when authorized by the air carrier or other operator of the aircraft. However, this authorization will require a finding that the particular device is incapable of creating interference with the navigation and communication system of the aircraft concerned.

The additional prohibitions proposed herein will continue to apply to all aircraft operated by an air carrier or commercial operator under VFR or IFR. However, since tests conducted with some of the portable electronic devices indicated interference could be created with communication and navigation equipment other than the VOR equipment, it appears necessary in the interest of safety to apply the prohibitions of this proposal to all other aircraft when operated under instrument flight rules or an instrument flight plan, regardless of whether the VOR equipment aboard the aircraft is being used for navigational purposes.

In consideration of the foregoing, it is proposed to amend § 91.19 of Part 91 of the Federal Aviation Regulations as follows:

§ 91.19 Portable electronic devices.

(a) Except as provided in paragraph (b) of this section, no person may operate, nor may any operator or pilot in command of an aircraft allow the operation of any portable electronic device on any of the following U.S. registered civil aircraft:

(1) Aircraft operated by an air carrier or commercial operator under Parts 121, 127, or 135 of this chapter; or

(2) Any other aircraft while it is operated under IFR or an IFR flight plan.

(b) The provisions of paragraph (a) of this section do not apply to—

(1) Portable recorders;

(2) Hearing aids;

(3) Heart pacemakers;

(4) Electric shavers; or

(5) Any other portable electronic device that is authorized for use aboard an aircraft by the air carrier, commercial operator, or other operator of the aircraft on which the particular device is carried.

(c) The authorization specified in paragraph (b)(5) of this section may only be given when the air carrier, commercial operator, or other operator of the aircraft has determined that the particular device will not cause interference with the navigation or communication system of the aircraft on which it is to be used.

This amendment is proposed under the authority of sections 313(a) and 601 of the Federal Aviation Act of 1958 (49 U.S.C. 1354 and 1421).

Issued in Washington, D.C., on March 24, 1966.

G. S. MOORE,
Director,
Flight Standards Service.

[F.R. Doc. 66-3349; Filed, Mar. 29, 1966; 8:46 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 25]

[Docket No. 16550; FCC 66-272]

ESTABLISHMENT AND OPERATIONS OF COMMUNICATIONS SATELLITE SYSTEM AND SATELLITE TERMINAL STATIONS

Procurement of Apparatus and Services

1. Notice is hereby given of proposed rule making in the above-entitled matter;

2. The Communications Satellite Corp. (Comsat) has filed with the Commission a petition to amend § 25.156(e) of the Communications Satellite Procurement Regulations (Subpart B of Part 25) by a clarifying amendment which "* * * would expressly recognize that said rules and regulations are not intended to govern the practices of foreign persons and firms with respect to the procurement of property or services for the space segment of the global communications satellite system."

3. Comsat states that subsequent to the adoption of the procurement rules, the U.S. Government and Comsat entered into "* * * international arrangements for the design, development, construction, establishment, maintenance and operation of the space segment of such a satellite system." Comsat further alleges that the U.S. Government and Comsat "* * * have specifically recognized and agreed to the procurement of services and equipment for the space segment on an international basis," as both the Inter-Governmental Agreement Establishing Interim Arrangements for a Global Commercial Communications Satellite System and the Special Agreement signed by Comsat pursuant to Article II of the Interim Agreement contain procurement provisions.

4. It is Comsat's view that if the rules as presently written are literally construed and applied, they would "* * * have the effect of imposing United States regulatory requirements upon public and private entities wholly outside the jurisdiction of the United States. Such a result would appear to be contrary to the overall spirit of the Interim and Special Agreements."

5. Comsat specifically proposes to add the following language to the definition of "Party Making Procurement" contained in § 25.156(e) of the rules: *Provided further, however,* That the term "party making procurement" shall not include any person or firm engaged in the procurement of property or services required for the establishment or operation of the space segment of a communications satellite system (as said space segment is defined in the Agreement Establishing Interim Arrangements for a Global Commercial Communications Satellite System opened for signature on August 20, 1964, at Washington) if such person is a resident of, or such firm is organized under the laws of, a foreign jurisdiction and has his or its principal place of business outside the United States.

6. This language, Comsat believes, would achieve the stated purpose of limiting the Commission's jurisdiction solely to United States companies or persons when procurements for the space segment of the satellite system are made.[1]

7. The Comsat proposal would have the following result. Comsat would, as at present, enter into a contract with a prime contractor for a given procurement for the space segment following the procedures established by the rules and regulations. If the prime contractor selected according to these established procedures is a foreign person or firm, that person or firm could enter into subcontracts without further reference to the Commission's procurement rules. If the prime contractor is a United States entity, any further procurements or subcontracts it makes would have to be made in accordance with the rules. However, if after following the procedures established by the rules, it in turn selects a foreign subcontractor, that particular foreign subcontractor would not be required to comply with the rules. If the foreign contractor or subcontractor selects a United States firm to perform a subcontract, then that United States firm would, in the event of any further subcontracts be required to award such subcontracts pursuant to the rules. Thus, the proposed amendment would not remove the obligation of United States firms to comply with the rules.

8. We recognize that the Interim Agreement and the Special Agreement (International Agreements) were negotiated and signed after our procurement rules became effective and that the U.S. Government participated in the negotiations for those agreements, and is a party to the Inter-Governmental Agreement. These agreements implement the policies and objectives of the Satellite Act that there be established "* * * in conjunction and in cooperation with other countries, as expeditiously as practicable a communications satellite system, * * *." Insofar as the specific matter before us is concerned it is pertinent to note that the requirements of the International Agreements and the Satellite Act seek the same objectives and apply parallel standards with respect to conditions for procurement. We are concerned, however, at some of the possible results of the amendment sought by Comsat. For example, under the Comsat proposal, foreign subsidiaries of United States companies would not be required to follow the procurement regulations, although the parent entity located in the United States would be required to do so. Thus, domestic corporations may have an incentive to arrange their business affairs in a manner such that their foreign subsidiaries could be the bidder for, and recipient of, contracts which would otherwise go to such domestic corporations. This could give the parent company an unfair advantage over its United States competitors as the subsidiary could award subcontracts to the parent or other subsidiaries without regard to the procurement rules while a United States company without such subsidiary could not do so.

9. The Commission would be concerned if the proposed amendment should have such a result. On the other hand, we recognize that foreign subsidiaries of U.S. companies may be bona fide bidders for, and recipients of, contracts. Accordingly, if an amendment is adopted to achieve the results proposed by Comsat, the Commission will carefully scrutinize all contracts awarded to foreign subsidiaries of domestic companies. We will consider what further action should be taken if it appears that improper activities have taken place to avoid or defeat the policies and objectives of the Satellite Act with respect to the maintenance of competition in procurement. In any event, the Commission expects that Comsat, U.S. communications common carriers and other domestic concerns will keep it advised of all proposed actions that might result in procurements outside the scope of the procurement rules.

10. The Commission invites comments on the language proposed by Comsat (Appendix A), as well as recommendations for procedures which should be adopted to obviate the possible abuses outlined in paragraph 9 above either with or without the adoption of formal rules to govern the matter.

11. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before May 2, 1966, and reply comments on or before May 16, 1966. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in

[1] There is no proposal to limit the Commission's jurisdiction when procurements for ground terminal stations located within the United States are concerned or for other facilities not part part of the "space segment."

this proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

12. Authority for the amendments herein proposed is contained in sections 201(c)(1) and 201(c)(11) of the Communications Satellite Act of 1962 (47 U.S.C. 701 et seq.) and section 4(i) of the Communications Act of 1934, as amended.

13. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and 14 copies of all statements, briefs, or comments shall be furnished the Commission.

Adopted: March 24, 1966.

Released: March 25, 1966.

FEDERAL COMMUNICATIONS COMMISSION,[2]

[SEAL] BEN F. WAPLE, *Secretary.*

§ 25.156 Definitions.

* * * * *

(e) *Party making procurement.* The term "party making procurement" means any person or firm engaged in the procurement of property or services required primarily for the establishment and operation of a communications satellite system or a satellite terminal station including the corporation, carriers, prime contractors, and subcontractors; *Provided, however,* For the purposes of §§ 25.162–25.167, inclusive, the term "party making procurement" means the corporation, carriers, and prime contractors; *Provided further, however,* That the term "party making procurement" shall not include any person or firm engaged in the procurement of property or services required for the establishment or operation of the space segment of a communications satellite system (as said space segment is defined in the Agreement Establishing Interim Arrangements for a Global Commercial Communications Satellite System opened for signature on August 20, 1964, at Washington), if such person is a resident of, or such firm is organized under the laws of, a foreign jurisdiction and has his or its principal place of business outside the United States.

* * * * *

[F.R. Doc. 66-3396; Filed, Mar. 29, 1966; 8:49 a.m.]

[47 CFR Part 73]

[Docket No. 11279; FCC 66-268]

SUBSCRIPTION TELEVISION SERVICE

Notice of Proposed Rule Making and Notice of Inquiry

1. Further notice of rule making is hereby given in the above-entitled matter, which is also hereby enlarged to include an inquiry into subscription television transmitted by wire (see pars. 47–49, below).

History of the proceeding. 2. This proceeding was begun by the adoption of a notice of proposed rule making on February 10, 1955, which invited comments on specified questions of law, fact, and public interest with a view to ascertaining whether the Commission should adopt rules to authorize television stations to transmit programs paid for on a subscription basis.[1] No specific proposals for rules were contained in the notice.[2]

3. On May 23, 1957, after having carefully studied the multitude of comments filed, the Commission adopted a Notice of Further Proceedings, FCC 57-530, 22 F.R. 3758, which answered one of the questions of law by announcing the conclusion (without detailing the basis therefor), that it has statutory authority to authorize the use of television frequencies for subscription operations if it finds that it would be in the public interest. As to the other questions posed in the notice of proposed rule making, it was stated that although comments had been useful, they had not provided a fully adequate basis for concluding either that subscription television should or should not be authorized and that, therefore, trial demonstrations would be indispensable in arriving at soundly based decisions on the subject. Comments were invited on a series of questions designed to aid the Commission in deciding the conditions under which trial operations should take place.

4. On October 17, 1957, the Commission adopted a First Report, 23 FCC 532, 16 Pike & Fischer, R.R. 1509, which set forth in detail the basis for the conclusion on statutory authority mentioned above. It also announced that the Commission was prepared to accept applications for authorizations to conduct trial subscription television operations under conditions prescribed therein. A Third Report, adopted March 23, 1959, amended the First Report in some respects, and otherwise readopted and reaffirmed it. 26 FCC 265, 16 Pike & Fischer, R.R. 1540a.[3]

5. On February 23, 1961, after a 5-day en banc hearing before the Commission, the first application filed (on June 22, 1960) under the terms of the Third Report was granted. It authorized the RKO General Phonevision Co. (then known as the Hartford Phonevision Co.), licensee of UHF Station WHCT, Hartford, Conn., to engage in a 3-year trial operation of subscription television over WHCT using Zenith Phonevision equipment. The U.S. Court of Appeals for the District of Columbia Circuit affirmed the action of the Commission in authorizing the Hartford trial. Connecticut Committee Against Pay TV v. FCC, 301 F. 2d 835 (D.C. Cir.), cert. denied, 371 U.S. 816 (1962). The operation commenced on June 29, 1962. On May 21, 1965, the authorization was extended for a period of 3 years or (if it occurs sooner), until such time as the Commission terminates the present rule making proceeding and enters an order with respect to the authorization.[4] Information concerning the operation has been supplied to the Commission from time to time upon request.

6. On March 10, 1965, Zenith Radio Corp., which manufactures and holds the patent for Phonevision equipment, and Teco, Inc., patent license of Zenith (hereinafter called "petitioners"), filed a joint petition for further rule making to authorize nationwide subscription television which, among other things, contained specific proposed rules to govern such a service. Filed simultaneously therewith and in support thereof were joint comments of Zenith and Teco which supplement the petition by presenting detailed information about the first 2 years of the Hartford trial and relating that material to many of the questions referred to in paragraph 2 above. Now before us for consideration are the petition, the joint comments, and other related pleadings.[5]

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[1] The identifying characteristic of subscription television (also called "pay TV" or "toll TV") is the transmission of programs intended to be viewed only by those who pay a charge. Until now, this proceeding has been limited to the transmission of subscription programs by television broadcast stations. Generally speaking, the video and audio are sent over the air "scrambled" by the television station and may be viewed intelligibly only by those who have "unscrambling" devices attached to their television sets. Another type of pay TV previously outside the scope of this proceeding is that which transmits programs from the point of origin to the sets of subscribers by means of wire or cable. By the Notice of Inquiry herein, as stated above, the proceeding is now expanded to include wire or cable operations.

[2] The notice was adopted in response to petitions for rule making filed by Zenith Radio Corp. and Teco, Inc. (proponents of the "Phonevision" subscription television system); Skiatron TV, Inc. (proponent of the "Subscriber-Vision" subscription television system); and a number of television station licensees and permittees.

[3] The Third Report amended the First Report in three important respects: (1) Permitting trial of a particular subscription TV system in only one market instead of up to three; (2) permitting only one system to be tried in a market instead of more than one; and (3) barring operators of trials from requiring the public to purchase equipment (a question left open in the First Report).

[4] Two other applications for authorizations were filed. One, for a trial over a Sacramento, Calif., station was denied because it did not meet the conditions of the Third Report. The other resulted in a grant, on Oct. 3, 1962, of an authorization for a trial operation over Station KCTO (then KTVR), Denver, Colo. This operation never commenced, and the authorization was relinquished on May 1, 1964.

[5] An opposition to the petition was filed by the Joint Committee Against Toll TV (an association of motion picture theater interests hereinafter called the "Joint Committee") to which petitioners replied. Statements in support of the petition were filed by Teleglobe Pay-TV System, Inc. (Teleglobe equipment was to have been used in the Denver trial); and by International Telemeter Corp. (which conducted a 5-year closed-circuit pay TV operation in the suburbs of Toronto, Canada). Thomas A. Banning, Jr. also filed comments.

[2] Commissioners Loevinger and Wadsworth absent.

The Zenith-Teco petition and related pleadings. 7. Petitioners stated that the Hartford trial has furnished a basis of meaningful factual information on which the Commission may make decisions concerning the future of subscription television, and request that further rule making be conducted as contemplated by the First and Third Reports. Data submitted pertain to many of the questions of law, fact, and public interest that must be resolved in arriving at ultimate decisions on the subject of this proceeding. Thus, information from the trial is presented concerning, among other things, the technical performance of equipment used, the modus operandi of subscription service, methods to be employed, the nature of the programs offered, and the role of the participating broadcast station licensee. Hartford trial material is also submitted which bears on the questions of how the public responds to what is offered by subscription television; of whether subscription television would provide a beneficial supplement to the program choices now available to the public; whether it would provide an increase in financial resources which would facilitate significant increases in the number of services available to the public under the present system; and whether it would seriously impair the capacity of the present system to continue to provide advertiser-financed programing of the present or foreseeable quantity and quality, free of direct charge to the public. In addition, arguments, as well as data from the Hartford trial, are presented on two legal issues: Petitioners urge that the Commission has statutory authority to authorize subscription television operations, and that such operations are "broadcasting" within the meaning of section 3(o) of the Act.

8. Generally speaking, all the pleadings but one support the Zenith-Teco petition. The only opposition to the petition was filed by the Joint Committee which argues: (1) The Commission does not have jurisdiction under the Act to authorize a permanent pay television system. (2) Even if it has, it should not do so without guidance from the Congress in the form of amendments to the Act. (3) In any event, pay television proponents have not demonstrated a pressing public need or desire for the institution of a permanent pay television system. (4) The Commission should therefore terminate these proceedings and conclude that the institution of a permanent pay TV system is not in the public interest. (5) If it decides not to terminate, any hearing should be a public evidentiary hearing. Zenith and Teco have proposed rules as if the basic question of whether pay television should be authorized on a permanent basis has been settled, and as if the only question left for discussion or determination is the manner in which the system should operate. The public evidentiary hearing should be directed at the basic question.

9. To these contentions, Zenith and Teco reply: (1) The argument that the Commission does not have jurisdiction to authorize a permanent pay television system has been previously considered and rejected by the Commission and the courts. (2) There are no aspects of pay television which cannot be appropriately regulated in the public interest under the Commission's present statutory power, and no legislative guidance is necessary at this point beyond the broad powers conferred by the Act. (3) The contention that in the absence of pressing public need the Commission may not authorize pay television is both incorrect and irrelevant. (4) Peremptorily terminating the proceeding without conducting further rule making hearings to evaluate information produced by the Hartford trial would constitute an abdication of regulatory responsibility and breach of good faith. (5) An oral evidentiary hearing which the Joint Committee suggests would serve no useful purpose and the Joint Committee has no legal right under the provisions of the Administrative Procedure Act to demand such a hearing. Moreover, it is recognized that a prerequisite to adoption of the proposed rules is a Commission determination that authorizing nation-wide subscription television is in the public interest and that this determination would be made as part of the further rule making proceedings requested.

The Zenith-Teco petition should be granted. 10. We believe that the material submitted by Zenith and Teco justifies going forward in this proceeding with the issuance of a further notice of proposed rule making and that the petition filed by them should be granted. Such action would be consistent with the provisions of section 303(g) of the Communications Act which provides that the Commission shall study new uses for radio and generally encourage the more effective use of radio in the public interest. The Hartford trial has provided us for the first time with considerable factual information[6] to serve as a basis for arriving at policy decisions concerning subscription television, and, although we have reached no final conclusion thereon, it appears that it may well be in the public interest to authorize such operations on a permanent nationwide basis.

11. In the First Report we stated (par. 47):

> The central issue on which the voluminous comments filed in this proceeding have been concentrated is whether subscription television would provide a beneficial supplement to the program choices now available to the public and an increase of financial resources which would facilitate significant increases in the numbers of services available to the public under the present system; or whether it would seriously impair the capacity of the present system to continue to provide advertiser-financed programing of the present or foreseeable quantity and quality, free of direct charge to the public.

[6] Appendix A hereto contains a summary of data from the Hartford subscription TV trial as submitted to us by Zenith, Teco, and RKO General, together with some implications which Zenith and Teco draw therefrom. They are not necessarily the conclusions of the Commission.

12. Even though the Hartford trial was limited to one market (and the program buying power was thus limited) it has shown that subscription television can make available programing not carried on conventional television, thereby providing a supplement to the program choices which the public now has. In Hartford an average of more than 1,500 hours of subscription programing per year were transmitted consisting of an average of about 300 different programs per year not available to the public on conventional TV (either in Hartford or anywhere in the United States). These programs consisted mainly of feature motion pictures which were not released to conventional television and which, under prevailing industry practice, would not be for a considerable period of time. They also included live sports broadcasts—championship boxing, basketball, hockey, and football games—not carried on conventional television. A small number of plays, concerts, ballets, and variety programs were also carried.[7]

13. As to reduction in conventional service resulting from audience loss and consequent loss of revenue, although no final conclusions can be drawn from the Hartford trial it does suggest that the diversion of audience from conventional programing would not be destructive. Subscriber homes in Hartford (4,851 as of June 30, 1965) accounted for less than 1 percent of the net weekly circulation of the market (about 800,000). While the fact that RKO decided not to increase the number of subscribers at the end of the second year of the trial could account in part for that low figure, there is a question whether if it had elected, instead, to continue to promote new subscriptions, it would have achieved a subscription penetration of much more than 1 percent. The average subscription audience, at Hartford, at any particular time, was 5.5 percent of the subscribers. Assuming a 10 percent penetration of the country by subscription television, and assuming an average subscription audience of 10 percent of subscribers on a nationwide basis, the average audience in prime time viewing subscription programs would amount to 1 percent of the TV homes in the United States. It would not appear that this audience diversion, and whatever effect on revenues it might have, would seriously impair the present service. In addition, we believe that it is possible that, in some areas, otherwise marginal stations may be sustained in business, or come into

[7] A survey conducted by RKO at Hartford indicated other benefits to the public in addition to being provided an additional program choice by subscription television. Subscribers interviewed expressed satisfaction with the fact that, unlike conventional television, subscription television does not interrupt motion pictures with commercials. They also adverted to advantages accruing from seeing motion pictures at home with the entire family for the same price as contrasted with viewing them at theaters with a separate admission paid for each family member, and possible other costs for transportation, parking and baby sitting.

being, if subscription television time payments are available.

14. Thus, projecting the Hartford experience nationally and even assuming considerable greater penetration and subscriber viewing (10 percent penetration, 10 percent viewing, instead of the Hartford figures), audience diversion would be relatively small. Conceivably, however, the diversion might be substantially greater than that indicated in the foregoing discussion if nationwide development of STV should result in "siphoning" of programs and talent away from free television into the new service. For example, a single subscription operator in a large number of markets or a central subscription program procurement agency might be able to bid for programing in competition with the networks. Aside from the matter of audience diversion, such a process could result in making the free service a less rich and varied medium for those continuing to view it. It is difficult, on the basis of the Hartford trial or any other information which we have, to arrive at well-founded conclusions concerning siphoning of programs or talent. We invite comments on the extent to which such developments are likely to occur, and what rules or policies, if any, should be adopted to prevent them from occurring to a degree contrary to the public interest. For example, such regulations might include (1) rules preventing or limiting interconnection of pay TV operations by microwave or otherwise, (2) rules prohibiting a system manufacturer or franchise-holder (who might hold franchises in numerous markets) from engaging in subscription program procurement and supply, which could be made the responsibility of the individual licensee, or (3) rules to assure that subscription television entrepreneurs do not unreasonably contract with performers in such a way as to prevent or discourage their appearing on conventional television. Another possible approach to this question, urged by Zenith and Teco, is that subscription television be limited to kinds of programs not presently available in substantial amounts on conventional TV. This is discussed in paragraphs 41–42 below. We anticipate that, if subscription TV operations are authorized, the licensees thereof will be expected to furnish the Commission, on a continuing basis, with information as to number of subscribers, per-subscriber expenditures, and programs presented so that we may be periodically informed as to the factors bearing on their potential for siphoning programs or talent from conventional television.

15. As stated above (par. 11) we are interested in whether subscription television will provide a beneficial supplement to the program choices now available to the public or will seriously impair the capacity of the present system to continue to provide conventional programing of the present or foreseeable quantity and quality. However, as we stated in paragraph 55 of the First Report,

> We are especially hesitant to adopt the theory apparently underlying arguments made by some of the opponents of subscription television that advertiser-financed television, which has accomplished such impressive growth during its short existence, can continue to render its valuable public service only if protected against competition from the proposed new service. While it would seem reasonable to suppose that subscription television, as a new competitor for audience, would exert some competitive impact on the present system, we are unable to conclude on the basis of information available to us that competition would inevitably result in such a serious impairment of the present service as has been so forcefully argued by the opponents.

16. In our judgment, our consideration of subscription television should proceed with due regard both for its potential benefits and disadvantages and for the inherent strengths and advantages of the existing system. That subscription television on a nationwide scale can be effectively integrated into a total TV system, with advantages to the viewing audience, appears to be a reasonably sound conclusion at this point. While, as mentioned, there may be some impact on free TV, we do not believe that this is in itself necessarily bad or that it need occur to a degree contrary to the public interest, particularly if safeguards such as those previously mentioned are adopted. Our concern, as it must be, is with the overall public interest and not with protection of any existing service as such. It may well be that competition between conventional and subscription TV for viewing audience and program material may result in improved and more varied fare, both for subscription viewers and those who continue to rely on conventional television. But we also emphasize that we regard the preservation of conventional television service and the continued availability of good program material to the free service as extremely important considerations. Some of the problems involved in integrating subscription service into the overall service are discussed in paragraphs 31–42 below.

17. Finally, although the Hartford trial, together with the experience of International Telemeter in Etobicoke and of Subscription Television, Inc., in California, has demonstrated that a subscriber market does exist where such service is offered, we cannot conclude from such a small sample that subscribers can be obtained in sufficient numbers to make this a viable business. The Commission presently inquires into the potential for continued operation of a proposed television station for which a construction permit is requested (Ultravision Broadcasting Co., 1 FCC 2d 544). Similarly, if subscription television is established as a permanent service, the Commission's policy in issuing subscription authorizations may well be to require a showing by the applicant of potential for sustained operation if the authorization is granted. Related to the question of whether any proposed subscription operation will be viable is the issue listed in paragraph 45(b)(11) below concerning possible requirements to insure that the public would not be adversely affected by cessation of subscription service (e.g., rental rather than sale of decoders, or possible refund if subscription service is terminated before a certain time).

18. In reaching the decision to issue a further notice of proposed rule making, we have considered the various points raised by the Joint Committee. Two of these—that this proceeding be terminated at the present time, and that there is a lack of demonstrated need for subscription television service—are treated in paragraphs 10–16. The other three are considered immediately below.

19. *The question of jurisdiction.* For reasons set forth in detail in the First Report we believe that we have statutory authority to authorize subscription television on a permanent basis. The action of the Circuit Court affirming our grant of authorization for the Hartford trial and rejecting arguments that we lack statutory authority to authorize a television broadcast system, requiring the direct payment of fees by the public supports this conclusion. The Joint Committee urges that the decision of the court in that case affirms our authority to authorize experimental subscription operations, but not permanent operations. We believe that this is not a correct evaluation of the opinion and that statutory support for the Commission's jurisdiction to authorize a subscription system is equally necessary whether that authorization be for a trial or a permanent operation. Therefore we regard the court's holding as applicable to either situation.

20. *The question of congressional guidance through amendment of the Act.* As mentioned above, we believe that we presently have adequate statutory authority to authorize over-the-air subscription television on a permanent basis, as proposed herein, if we find it to be in the public interest. At this stage of the proceeding, we cannot determine whether any amendments to the Act will be necessary for the purpose of establishing guidelines governing such service—guidelines not within the present scope of the Act such as some type of rate regulation. If we should ultimately establish a subscription television service, we shall, on the basis of the information then before us in this proceeding, determine whether amendments to the Act are needed and, if so, what recommendations should be made to Congress. Because of the complex nature of the subject and the multitude of issues involved, we are allowing a lengthy period of time in which to file comments and reply comments responsive to the instant document. This period, we believe, will afford Congress time in which to take legislative action concerning subscription television before this proceeding is terminated, if it so desires.

21. *The question of oral evidentiary hearing vs. a further rule making proceeding with written comments.* In the First Report we stated that "The Commission will, when it finds that sufficient, meaningful data are available from trial subscription television operation, conduct a public hearing at which all interested parties will have full opportunity to submit information, data, and views concerning the foregoing and any other

questions which remain to be answered in reaching a decision as to whether the authorization of a subscription television service on some extended or continuing basis would serve the public interest * * * [In the meantime] * * * the present proceeding will remain pending * * *."[8] For the reasons stated above, we are issuing the instant further notice of proposed rule making which provides interested parties an opportunity to submit written comments. After careful study thereof, we shall take whatever steps appear appropriate at that time, including an oral presentation if it is indicated, as may well be the case.

Particular aspects of the subscription television question.—Is subscription television broadcasting? [9]

22. In addition to the threshhold question of whether the Commission has the statutory authority to authorize and regulate subscription television operations (see par. 16 above), the notice of proposed rule making herein (par. 8) posed the following question:

> Whether subscription television constitutes "broadcasting" within the meaning of section 3(o) of the Communications Act of 1934, as amended; and if it is not "broadcasting" whether subscription television constitutes a common carrier or other type of service, and whether the Commission has the authority to permit subscription television to employ channels assigned to television broadcasting.

23. In the First Report (par. 43) we stated that we thought it "unnecessary, and * * * undesirable to decide at this stage the proper classification of subscription television under the Communications Act." With the information now before us, we conclude that subscription television constitutes "broadcasting" within the meaning of section 3(o) of the Act. That section reads as follows:

> (o) "Broadcasting" means the dissemination of radio communications intended to be received by the public, directly or by the intermediary of relay stations.

24. In the First Report (par. 27) we adverted to the fact that the language of section 1 of the Act which reads "For the purpose of regulating interstate and foreign commerce in communication by wire and radio so as to make available, as far as possible, *to all the people of the United States* a rapid, efficient, nationwide, and worldwide wire and radio communication service with adequate facilities at reasonable charges * * *" (emphasis added), coupled with the language of section 3(o) which states that "broadcasting means the dissemination of radio communications *intended to be received by the public* * * *" (emphasis added), had been relied on in support of an argument that the Act did not contemplate or permit, and in fact bars, authorization by the Commission of a program service by broadcast stations that would be available only to members of the public who pay a charge. In response thereto, we stated:

> We believe * * * that such a construction cannot reasonably be made * * * section 1 states the general purposes of the Act in broad terms. The reference to "all the people of the United States" does not, for example, preclude licensing the use of radio frequencies for the safety and special radio services. Frequencies so allocated are not available to all the people of the United States. While words "at reasonable charges" evidently refer to the Commission's regulation of rates charged by common carriers for message communications, and does not, presumably, refer to charges for programs disseminated over broadcast stations, it may be noted that their express reference to charges is unaccompanied by any prohibitive language concerning charges for programs transmitted by broadcast stations * * *. Nor do we agree with the argument put forward by some parties that the above quoted definition of "broadcasting" in section 3(o) per se bars the authorization of subscription broadcasting. The evident intention of any station transmitting subscription programs would be to make them available to all members of the public within range of the station.

We now reaffirm those views.

25. As we have stated elsewhere,[10]

> * * * It might be argued that such programs [subscription programs] are not "intended to be received by the public" since their intended receipt would be limited to members of the public willing to pay the specified price. But, absence of any charge for the program is not made a prerequisite of "broadcasting" operations under the present language of section 3(o). And the reliance of the broadcasting industry upon advertising revenue, rather than upon direct charge to the public as its principal source of revenue, has not been the result of any action by either Congress or the Commission, but rather the result of the natural development of the industry. It would appear that the primary touchstone of a broadcast service is the intent of the broadcaster to provide radio or television program service without discrimination to as many members of the general public as can be interested in the particular program as distinguished from a point-to-point message service to specified individuals * * * while particular subscription programs might have a special appeal to some segment of the potential audience, this is equally true of a substantial portion of the programing now transmitted by broadcasting stations.

The legislative history of section 3(o) does not, as we have also stated,[11] in any way detract from an interpretation of the language of that section which would hold that subscription television is "broadcasting."

26. In connection with the last point mentioned in the quotation above, it may be observed that "intent" may be inferred from the circumstances under which material is transmitted, and that the number of actual or potential viewers is not especially important. For example, as Zenith and Teco mention, "A color broadcast by a television station or a broadcast by a new UHF station in a VHF market or a broadcast by an 'educational' television station are not classified as [other than broadcasting] although disseminated with the knowledge that only a highly limited number of persons possessing special equipment will receive the broadcast."

27. In Functional Music, Inc. v. FCC, 274 F. 2d 543 (D.C. Cir.), cert. denied, 361 U.S. 813 (1958), the court held that a functional background music service for which a charge is collected from subscribers who have special equipment attached to their receivers constituted broadcasting within the meaning of section 3(o) of the Act, stating (at page 548):

> * * * the Communications Act specifies that broadcasting is "the dissemination of radio communications intended to be received by the public * * *." * * * [P]rogram specialization and/or control is not necessarily determinative of this requisite intent, and therefore dispositive of broadcasting status * * *. Broadcasting remains broadcasting even though a segment of those capable of receiving the broadcast signal are equipped to delete a portion of that signal.

We believe that the reverse also holds, namely, that broadcasting remains broadcasting even though a segment of the public is unable to view programs without special equipment. It may also be observed in connection with the quotation above that the Commission in the Muzak Corp. case, 8 FCC 581, 582 (1941) decided that transmitting radio programs which are paid for directly by those who receive them does not take the operation out of the definition of broadcasting. It appears from the Hartford trial that subscription operations are intended to be received by the public within the meaning of section 3(o) of the Act and that such operations would be able to comply with all requirements applicable to broadcasting if such a service should be permanently authorized.[12]

28. Under the provisions of the Act, broadcasting and common carrier services are mutually exclusive classifications, for, as section 3(h) states in pertinent part, "* * * a person engaged in radio broadcasting shall not, insofar as such person is so engaged, be deemed a common carrier." We would add to the foregoing discussion our view that subscription programing is not a common carrier service pursuant to the provisions of Title II of the Act because, as we stated at page 3 of our comments on H.R. 6431 (see footnote 8).

> Stations engaged in subscription operations would appear to be selling program material to the members of the listening or viewing public, either developed by the sta-

[8] 23 FCC 532, 556, 16 Pike & Fischer, R.R. 1509, 1533.

[9] The discussion in pars. 19–30 is limited to over-the-air subscription television.

[10] Comments of the Federal Communications Commission on H.R. 6431, A Bill To Amend the Communications Act With Respect to its Application in the Case of Subscription Radio and Television, FCC 54–601, pp. 1–2, May 6, 1954.

[11] Ibid., p. 2.

[12] The licensee of WHCT, over which the Hartford trial was conducted, stated that (with the exception of present television broadcast technical rules that prohibit scrambling of signals—rules which did not apply to the trial), it experienced no dissimilarities in complying with broadcast obligations during its hours of operation as a conventional television broadcast station and as a subscription television broadcaster, which tends to support our conclusion as to the proper classification of subscription television.

tion itself, or procured by contract with another originating source, rather than providing them with a communications service for hire. It has been a fundamental concept in the communications field that a person is not a "common carrier" of communications where he is providing his subscribers primarily with a news or information service, rather than with a communication service enabling subscribers to communicate among themselves. Thus, for example, while the furnishing of leased wires or radio circuits by the telephone or telegraph carriers is part of their common carrier activities, the use of such leased wires by the news services to transmit news to their subscribers, or by the stock exchange to transmit price quotations has been held not to involve common carrier operation. Similarly, in the case of subscription radio or television program services, the subscribing members of the public would be paying for the programs rather than for the use of communications facilities. Moreover, it obviously is not contemplated that subscription stations would have the common carrier obligation of carrying, without discrimination, all programs offered for carriage.

29. As to whether subscription television might be a type of service other than either broadcasting or common carrier, no comments filed previously herein or any material from the Hartford trial indicates that it should be so considered. For reasons set forth above, we believe subscription television is broadcasting.

30. Since over-the-air subscription television is considered to be broadcasting, the question arises as to whether certain provisions of the Communications Act and our rules pertaining to broadcast stations should apply to subscription television operations in the same way they do to regular broadcasting. In the Act, section 303(i) gives the Commission authority to make special regulations applicable to stations engaged in chain broadcasting; section 307(d) limits the term of broadcast station licenses to 3 years, and of other stations to 5 years; section 315 provides for equal use of broadcasting facilities by political candidates; section 317 provides that announcement must be made by broadcast for which money or other consideration has been paid; section 325 prohibits broadcast stations from rebroadcasting programs of other stations without permission; section 605 prohibits the unauthorized publication of communications, but expressly exempts "the contents of any radio communication broadcast" from its application. Most of the foregoing are the subject of Commission rules. We invite comments on whether we should recommend legislation to the Congress, and if appropriate, make changes in our rules, to modify any of these sections insofar as they affect subscription television. In addition, comments are invited on how the "fairness doctrine," which does not appear in our rules but which is given recognition in section 315(a) of the Act, should apply to subscription television.

Should subscription television be permitted in all markets and should there be a limitation on the amount of time that stations may devote to subscription broadcasting? 31. In the Third Report, one of the conditions for the authorization of trial operations was that such authorizations be limited to stations the principal communities of which were within the Grade A contours of at least four commercial television stations. One of the primary purposes of that condition, as stated therein, was to permit the continued availability of substantial amounts of free program services. Zenith and Teco urge that if subscription television is authorized on a nationwide basis, it should be made available in all markets regardless of the number of television stations therein. This, they state, would be consistent with the provisions of section 307(b) of the Act which requires that the Commission make a fair, efficient, and equitable distribution of broadcast service among the several States and communities.

32. Although the trial condition required that the trial community lie within four commercial Grade A contours, we by no means intended that the condition be carried over into a final rule if subscription television were authorized on a nationwide basis. As we said in paragraph 12 of the Third Report, "[it] would be premature * * * to decide at this stage whether or not, and if so, in what circumstances it may be found in the public interest, after initial trials, to authorize subscription television operations in cities served by fewer than four television stations." In the light of the Hartford experience, we tentatively agree with Zenith and Teco that a limitation to markets with four Grade A services is not appropriate, but that subscription television can be of benefit to persons in other markets without affecting the availability of free television to a degree contrary to the public interest and might indeed make viable stations in small markets now receiving little or no service, where operation might otherwise be impossible.

33. Obviously, if free television is to remain available to the public as it should, the amount of time a station can devote to pay TV should depend on how much free service is available from other stations. Therefore, it appears that there should be varying limits, and the following scale is proposed as an example: If a station is one of five or more commercial television stations providing a Grade A signal to the community, no limits except that it must meet the minimum free TV hours required by § 73.651 of the rules (varying from 12 hours per week to 28 hours per week, depending on how long the station has been operating); if it is the fourth station, 50 percent of its nonprime broadcast time, and 75 percent of its prime time; if it is the second or third station, 25 percent of its nonprime time, and 60 percent of its prime time; if it is the only station, 15 percent and 50 percent. All stations would have to meet the requirement of § 73.651 as to free time. The argument of Zenith and Teco that such limitations are too complicated and unnecessary are rejected. (The foregoing example assumes one subscription operation in the community. However, there is a question of whether more than one subscription operation should be permitted in the same community (see pars. 35 and 45(b)(4)). Comments are invited on alternative subscription program limitations if more than one is permitted.)

Should subscription television be limited to UHF stations or otherwise limited with respect to stations? 34. While some suggested that only UHF stations be eligible for subscription television, Zenith and Teco urge that all types of stations should be eligible although UHF stations will probably be the chief beneficiaries. The Commission would like the comments of interested parties as to whether subscription operations should by rule be restricted to UHF, to UHF and VHF stations in small or "overshadowed" markets, or not at all.

Should subscription television be permitted over more than one station in a community, and if so, should such stations be permitted to broadcast subscription programs simultaneously? 35. Zenith and Teco urge that the policy of encouraging competition and multiple competing outlets should apply in the case of subscription television as well as free TV. Bearing this in mind, but also the fact that pay TV may mean, pro tanto, less free TV which is the main service, and having drawn no conclusions on the matter, we invite comments on this point as well as on the related question of whether two or more subscription operations within the same community should be permitted simultaneously.

Should subscription television be limited to a single technical system? 36. Zenith and Teco suggest that subscription television operations not be limited to a single technical system. They express the belief that the underlying policy of the Act of encouraging competition dictates the adoption of general technical standards within which more than one system might operate. Such standards, they point out, could be limited to requirements that the system (a) not cause interference or have other undesirable effects within or without the assigned frequency band, (b) should result in no perceptible degradation of the quality of the video and audio signals received during either a subscription program or a nonsubscription program, and (c) should be compatible with existing television service—both VHF and UHF and both monochrome and color—so that TV sets now in the hands of the public and transmitting equipment of existing broadcast stations can be used in the subscription service.

37. In other broadcasting service we have taken steps to assure that receiving equipment used by the public be capable of utilizing signals from any station. To this end, we have required all broadcast stations in any band to use a single system of transmission so that receivers need not be altered or complicated to receive different stations. This requirement for a single system has been applied to basic broadcasting service, color TV, and FM stereo. There would appear to be advantages to using a single technical system for subscription television. If

different systems are used, different decoding apparatus must be provided for the viewers to receive the several kinds of transmissions. This might be inconvenient and expensive for viewers within the service areas of more than one subscription station who desire to receive several subscription stations, or for viewers who purchase decoders and later move to other localities in which different systems are used. If decoders are rented instead of purchased, there might still be expense and inconvenience in installing more than one type of decoder. It is also possible that permitting different subscription systems might tend to restrict competition, rather than stimulate it, because viewers who install decoders for one system would be unable, without additional expense and inconvenience, to receive the subscription offering of another station using a different system. This could result in different systems having separate audiences unable to select the program of other systems.[13]

38. Comments are invited on whether it would best serve the public interest to limit subscription television operations to a single technical system, or whether use of more than one system should be permitted. In addition, comments are invited on whether, if use of more than one system is permitted on a nationwide basis, only one system should be permitted within any single community (assuming that more than one subscription operation is permitted within a community).

39. In addition, parties are requested to submit within 60 days from the date of adoption of the instant document detailed specifications of their present or proposed system or to update submissions already made. This will (if the Commission ultimately decides that nationwide subscription television is in the public interest and should be authorized) permit work to proceed (a) on which system should be selected if we conclude that subscription television operations should be limited to a single technical system, and (b) on standards concerning multiple systems, if we decide that more than one system may be used. Comments are not only invited on the basic issues of paragraph 38, but also on what system should be selected if only a single system is allowed. Whatever technical rules might be proposed (either for a single system or for multiple systems) will be announced at a later date.

Relationship between the parties; program procurement and supply. 40. There are four parties or potential parties to a subscription television operation: The system manufacturer, the franchiseholder in one or more places, the station licensee, and the source of programs (in Hartford the licensee and the franchise holder are in essence the same, RKO General, Inc.). Bearing in mind considerations relating to monopoly and competition, and also the licensee's responsibility for the programs presented over his station, comments are specifically invited on the issues in paragraph 45 below which are related thereto. The proposed rules appearing in § 73.642(e) of Appendix C of the present document are substantially those advanced by Zenith and Teco. They appear to be the minimum requirements which would be necessary in this area. If subscription television is authorized on a nationwide basis, further rules concerning such matters will be adopted if it appears appropriate.

Limitation on type of programing presented by subscription television. 41. Zenith and Teco suggest that any decision of the Commission authorizing subscription television on a nationwide basis make it clear as a matter of policy that it will expect subscription programing to be of a "box-office" nature rather than duplicative of conventional fare. It may be argued that such a policy would solve the possible problem of "siphoning" mentioned above. However, such an approach is not without difficulties.

42. We have reached no conclusions on this matter, and invite comments on whether there should be any limitation on the type of programing that subscription operations may present, and, if so, what types should be excluded, or how a line might be drawn to determine what types of programs could be shown and what could not. The term "box-office" is difficult of definition. Zenith and Teco appear to regard a program as box office if it is the sort of entertainment for which people are accustomed to pay, such as current motion pictures, sports events, and concerts. However, although such programs are, now and historically, "box-office" in this sense, they are also currently presented in substantial amounts on free TV. Using another approach, it might be possible to preclude certain types of programs, e.g., the sort of programs common to conventional television in which continuing characters are presented from week to week in a series using a common setting or central program concept. Related to this question is that of whether applicants for subscription authorizations should be required to make a showing that their programing will provide a different service from that of conventional television or would otherwise serve the needs and interests of the community to be served. Comments are also invited on this point. Finally, comments are also invited on the question of whether or not a limitation of this sort is within the scope of the Commission's authority, taking into account the provisions of section 303(b) of the Act which provide that the Commission may prescribe the nature of the service to be rendered by stations, and, on the other hand, the provisions of section 326 which provide that the Commission does not have the power of censorship over stations, and may not promulgate a regulation which interferes with the right of free speech by means of radio communication.

Commercials. 43. Zenith and Teco express the view that commercial announcements should not be permitted as part of subscription television operation. We agree with this and do not include it in the issues below because we believe that there is no doubt as to the answer. Our proposed rule governing the matter appears in § 73.643(a) of Appendix C hereto.

Scope of comments. 44. Parties are invited to focus their comments particularly on whether permanent nationwide subscription television would be in the public interest (see par. 10), on what rules, if any, would be necessary to prevent siphoning of programs or talent (see pars. 14, 41–42), and on the topics mentioned in paragraphs 30 through 42. (These issues and others are listed in paragraph 45 below.) In addition, comments should pay especial attention to the proposed rules in Appendix C.[14] These rules, of course, assume that nationwide subscription television operations would be in the public interest. They contain nothing about siphoning, but do contain proposals concerning some of the issues in paragraphs 31–42. The fact that we are emphasizing comments on certain matters should not be construed as indicating our lack of interest in others. Comments on all subjects and issues should be made in the light of what has occurred in recent years, particularly the Hartford trial operation and any other current data available. If our judgment should be that the public interest would be served by the authorization of subscription television on a permanent basis, we expect, in view of having studied comments received on the foregoing, be in a position to adopt rules without further rule making.

45. Pursuant to the foregoing, comments are invited on the proposed rules in Appendix C and on the following subjects and issues:

(a) Whether subscription television should be authorized on a permanent basis.

(b) If subscription television is authorized on a permanent basis:

(1) Whether subscription television should be limited to communities receiving a minimum number of television signals, e.g., whether it should be limited to stations the principal communities of which are within the Grade A contours of at least four commercial television stations (including that of party proposing to broadcast subscription programing), or whether it should not be so limited but should, in communities not lying within four commercial Grade A contours, be restricted to a more limited scope, especially as to hours of operation, than those in four-service communities. (See limitation proposed in § 73.643(d) of Appendix C.)

(2) Whether stations engaged in subscription operations should be required to broadcast a minimum number of hours of conventional programing and, if so, what the minimum should be (see § 73.643(c) of Appendix C). Whether subscription programing should be re-

[13] Attached hereto as Appendix B, for informational purposes, is a memorandum from the Chief Engineer of the Commission outlining the advantages of using a single technical system.

[14] These rules correspond in some respects to those proposed by the Zenith-Teco petition, and differ in others.

stricted to certain segments of the broadcast day and, if so, what segments; and whether a minimum or maximum number of hours of subscription programing per day or week should be specified, and, if so, what the number should be. (Concerning this issue, see § 73.643(d) of Appendix C which has been drafted on the assumption that only one subscription operation would be permitted in any single community. Comments are invited on alternatives if the issue in paragraph 45(b)(4) is resolved to permit more than one such operation in a community.)

(3) Whether subscription television should be permitted over any television station (subject to possible qualification as in paragraph 45(b)(1) concerning number of stations in the market), UHF stations only, or some other limitation.

(4) Whether more than one station in a community should be permitted to engage in subscription television operations, and, if so, whether such stations should be permitted to broadcast subscription television programs simultaneously.

(5) Whether more than one subscription television technical system should be authorized, and, if so, whether more than one technical system should be authorized to operate in any one community (assuming that the answer to paragraph 45(b)(4) is such as to permit more than one station in a community to engage in subscription operations); and, if only a single technical system is permitted, what system should it be?

(6) Whether a party manufacturing or selling equipment, or a holder of a subscription television franchise, in more than one market should be permitted to engage in the procurement and supply of programs to television stations for subscription use.

(7) What requirements should be imposed upon station licensees engaged in subscription television operations to assure licensee control, i.e., whether the licensee should be required to retain sole control of all decisions as to program choice, charges to the public, etc., or whether the requirements should merely concern such matters as the licensee's retention of the right to reject programs, to make free choice of programs, to schedule the time of showing of programs, and to set the maximum price to be paid for a program by subscribers (see § 73.642(e) of Appendix C).

(8) The nature of the technical rules that should be adopted.

(9) Whether, and to what extent, the Commission should regulate the charges, terms and conditions pursuant to which subscription television service will be offered to the public.

(10) Whether a station engaged in subscription television operations should be required to furnish subscription service to all persons within its service area who desire it.

(11) Whether requirements should be imposed to insure that the public would not be adversely affected by obsolescence of subscription television equipment or cessation of service, e.g., should the Commission require that such equipment be leased rather than sold.

(12) What restrictions should be adopted concerning the nature of arrangements among patent holders, patent licensees, franchise holders, and television station licensees, e.g., concerning such matters as whether, and under what terms and conditions, patents on any particular subscription television system will be required to be made available to franchise holders and station licensees, and whether stations engaged in subscription television operations should be permitted to enter into contracts that would give them exclusive rights to use a system in a particular community.

(13) Whether means should be provided to insure that subscription television service will be available to all eligible stations on a nondiscriminatory basis.

(14) Whether a limitation should be placed on the type of programing which subscription television operations may broadcast, and if so, what that limitation should be and whether applicants for subscription authorizations should be required to make a showing of how their programing will differ from conventional programing or would otherwise serve the needs and interests of the community to be served, and what that showing should be (see pars. 14, 41–42). Whether placing a limitation on type of subscription programing is within the scope of the Commission's authority, taking into account sections 303(b) and 326 of the Communications Act.

(15) Whether various sections of the Act and of the Commission rules, and of Commission policies, e.g., the "fairness doctrine," pertaining to broadcasting (see par. 30 above) should be modified as they affect subscription television, and if so, what the modifications should be.

(c) Any other matters relating to subscription television, including, but not limited to, issues not set forth above but having been published previously in this proceeding.[15]

46. Zenith and Teco, in their joint petition, have indicated their willingness to make available copies of their joint comments (see par. 6 above) to parties in interest wishing to comment herein. In addition, commenting parties may be interested in examining the answers which RKO submitted to a Commission questionnaire covering the first year of operation of the Hartford trial. Some of the answers thereto were previously held confidential by the Commission, but all are now being made available for public inspection. Most of the material contained in the questionnaire answers appears in the Zenith-Teco joint comments, but some (e.g., financial information) does not. In addition, updated answers to some of the questions have been placed in the questionnaire file which may be examined in the Commission's Broadcast and Docket Reference Room, New Post Office Building, 13th and Pennsylvania Avenue NW., Washington, D.C. Copies of material in the file may be obtained in the usual manner by payment of the per-page fee for reproduction thereof.

Notice of inquiry. 47. As indicated at the outset of this document (par. 1), this proceeding is being enlarged to include an inquiry into subscription television transmitted by wire or cable. Conditions have greatly changed since the inauguration of this proceeding in 1955. In 1965, in Docket Nos. 14895 and 15233 we asserted jurisdiction over community antenna television (CATV) systems served by microwave facilities and adopted rules governing such systems, 38 FCC 683, 1 FCC 2d 524. On March 4, 1966, in a Second Report and Order (Docket Nos. 14895, 15233, and 15971), 2 FCC 2d ____, we concluded that we have jurisdiction over all CATV systems—microwave-served and off-the-air. The same document adopted rules governing the latter type of CATV and amended the rules previously adopted for the former. In Docket No. 15971 we are inquiring into various matters pertinent to CATV operations including the question of whether CATV might become a vehicle for subscription television or combined CATV-subscription television operations, 1 FCC 2d 453, 473–475.

48. We believe that there should be inquiry concerning wire or cable subscription television, since this type of operation can be a significant factor in our study of the "public interest in the larger and more effective use of radio." Parties are therefore invited to comment on this matter, and particularly what is the appropriate Federal role, if any, with respect to the establishment and manner of operation of wire or cable subscription television, and how that role should be effected. In studying comments herein, we shall also take notice of comments filed in the inquiry in Docket No. 15971 pertaining to subscription television as related to CATV.

49. We also invite attention to the problems that a party proposing to bring over-the-air subscription service to a community with an established CATV system(s) (and some or no off-the-air conventional television) might encounter, and we would welcome comments thereon, including possible ways of solving those problems. Some questions that might be covered with regard to a community with no off-the-air TV signals and with a single CATV system are the following: Would it be necessary to have built-in antennas in the decoders attached to sets of subscribers? Would a single decoder attached to the antenna of a CATV which delivered the unscrambled signal to subscribers suffice? If so, what arrangements for collection of subscription fees could be made? Would the rules on carriage of signal of local sta-

[15] See par. 8 of notice of proposed rule making, FCC 55–165, 20 F.R. 988 (Feb. 16, 1955); and pars. 47, 56, and 66 of First Report, 23 FCC 532, 16 Pike & Fischer, R.R. 1509 (1957). See also conditions of Third Report, 26 FCC 265, 16 Pike & Fischer, R.R. 1540a, some of which (e.g., pars. 20–22, 28–29 of Third Report) are now being presented as proposed rules in Appendix C, and some of which (e.g., pars. 9–14 of Third Report) are presented as issues above.

tions over CATVs apply to carriage of subscription programs?

Other matters. 50. Pursuant to the procedures set forth in § 1.415 of the rules and regulations, interested parties may file comments on or before September 1, 1966, and reply comments on or before October 1, 1966. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it in addition to the specific comments invited by this notice. Comments and reply comments in the inquiry may be filed on or before September 1, 1966, and October 1, 1966, respectively.

51. Authority for the amendments proposed herein is contained in sections 3(o), 4(i), 301, 303, 307, and 309 of the Communications Act of 1934, as amended, and authority for the inquiry is found in section 403 thereof.

52. In accordance with the provisions of § 1.419 of the rules and regulations, an original and 14 copies of all comments, replies, pleadings, briefs, and other documents filed in this proceeding shall be furnished the Commission.

Adopted: March 21, 1966.

Released: March 24, 1966.

FEDERAL COMMUNICATIONS COMMISSION,[16]

[SEAL] BEN F. WAPLE,
Secretary.

APPENDIX A—SUMMARY OF HARTFORD SUBSCRIPTION TV TRIAL AND ZENITH-TECO PROJECTIONS BASED THEREON

The information presented here, except where otherwise indicated, is based on material contained in the Zenith-Teco comments and the RKO General response to the Commission questionnaire. It is intended to provide a convenient summary of the facts and conclusions as reported by the petitioners.

PART 1—FACTS ABOUT THE HARTFORD SUBSCRIPTION TELEVISION (STV) TRIAL—3-YEAR EXPERIENCE

1. This service was introduced by RKO's station WHCT, Channel 18 in June 1962 in Hartford, Conn., which is part of the Hartford-New Haven television market. This market is served by other stations affiliated with all 3 networks. The net weekly circulation of this market is approximately 800,000 homes (ARB, 1965), which is the number of homes estimated to be tuned in at least once a week to the largest station, WTIC, Channel 3. The net weekly circulation of WHCT Channel 18, prior to its STV experiment was 108,000 homes.

2. During the evening hours, and Saturday and Sunday afternoons, station WHCT, Channel 18, transmitted a scrambled signal which could be viewed intelligibly only by those having a decoder attached to their set. The decoder was installed for a $10 installation fee and a rental fee of $3.25 per month. All service calls were made free of charge.

3. By means of a weekly program schedule (supplemented by newspaper ads and listings), each subscriber was advised of the subscription features to be shown, the time and the price, and was given a code number for each feature. For example, the movie "What Ever Happened to Baby Jane" was listed for a price of $1 and was shown Monday, July 1, 1963 (Code Number 115E), and Thursday, July 4 (Code Number 111D), at 9 p.m. Subscribers wishing to see the movie simply set the code number in the decoder and the picture became unscrambled. The code number of each feature viewed and the price of the feature was automatically printed on a tape, which the subscriber removed each month and mailed to RKO with his check for the total amount for the programs viewed plus the monthly rental charge.

4. RKO intended to commence operations after 2,000 decoders had been installed, and "looked toward installation of 10,000 decoders by the end of the first year of trial. A maximum of 50,000 subscribers is contemplated * * *."[1] Actual operations started with fewer than 200 decoders on June 29, 1962, and progressed through 3 years of operation, as follows:

	Installed	Disconnected	Number of subscribers at end of year
1st year	3,183	422	2,761
2d year	3,394	1,386	4,769
3d year	1,752	1,670	4,851
3-year total	8,329	3,478	4,851

According to Zenith-Teco, "at the close of the second year of trial operations, RKO decided to limit the number of subscribers to 5,000 for the remaining third year of trial authorized because business prudence and fairness to subscribers did not warrant further substantial expansion without some assurances that the Commission would authorize the trial beyond the third year." The 4,851 STV subscribers at the end of the third year represented 0.6 percent of the net weekly circulation in the TV market or 4.5 percent of WHCT's net weekly circulation prior to its STV operation.

5. Zenith-Teco disputes the contention that STV is a service which only the wealthy can afford. The following table shows the income level and program expenditures of the Hartford subscribers:

HARTFORD SUBSCRIBERS BY FAMILY INCOME LEVEL

Income levels	Proportion of total U.S. families [2]	Proportion of total subscribers	Average weekly program expenditure
	Percent	*Percent*	
$0 to $3,999	29.1	1.5	$0.99
$4,000 to $6,999	32.5	40.8	1.25
$7,000 to $9,999	21.0	43.3	1.23
$10,000 and over	17.7	14.4	1.18
Total (rounded)	100.0	100.0	*1.22

*Average.
[2] Statistical abstract of the U.S. 1964, p. 338.

6. To interest new subscribers RKO, from time to time, did extensive advertising, used door-to-door specialty salesmen, made offers of free decoder rentals, gave program discounts and used other promotions. During the first 2 years, RKO was able to obtain only a limited number of first subsequent run (neighborhood release) motion pictures and practically no first run (downtown release) movies. Most of the movies during this period were over 6 months old. In the third year, subsequent first run movies were available in greater number.

7. The turnover rate (the number of subscriber homes disconnected as a percent of the average number of subscriber homes) was 27 percent the first year, 36 percent the second year and 34 percent the third year. Turnover results from such factors as subscribers moving from the community, insufficient use to justify expenditure for decoder rental and credit delinquencies.

8. The following table summarizes the income and expense statements of the Hartford trial operation:

[Dollars in thousands]

	1st year	2nd year	3rd year	Total 3 years
Net income, totals	134	320	436	890
Installation	30	36	20	86
Decoder rental	30	92	154	276
Program	74	192	262	528
Expenses, total	1,487	1,687	1,254	4,428
Program product	31	75	110	216
Other program expenses	17	68	66	151
Time charges paid to WHCT [3]	698	799	482	1,979
Technical	157	146	106	409
Sales, advertising and promotion	74	112	60	246
Depreciation [4]	[5] 375	308	289	972
Other general and administrative	135	179	141	455
Operating loss	(1,353)	(1,367)	(818)	(3,538)

[3] Station was paid $300 per hour. Zenith-Teco comments suggest that payment of $400,000 per year would normally be made to station in market of this size. If such $400,000 were paid in this case, 3-year loss would be $2,759,000 instead of $3,538,000.
[4] Decoders cost $125.00 each and, for the test were completely depreciated during the 3-year period.
[5] For this year cost of decoders purchased was reported rather than depreciation.

9. The following table shows the extent to which reductions were made in the charges for programs and decoder rentals.

HARTFORD DISCOUNTS

	1st year	2nd year	3rd year	Total 3 years
Gross program income [6]	$82,028	$211,647	$285,821	$579,496
Net program income [7]	$74,163	$191,142	$262,088	$527,393
Difference	$7,865	$20,505	$23,733	$52,103
Difference as percent of gross program income	9.6	9.7	8.3	9.0
Gross decoder rental income [8]	$60,479	$151,211	$189,878	$401,568
Net decoder rental income [9]	$30,394	$92,284	$153,708	$276,386
Difference	$30,085	$58,284	$36,170	$124,539
Difference as percent of gross decoder rental income	50	39	19	31

[6] Amount that would have been charged for programs if each subscriber were required to pay for each program viewed the listed price.
[7] Amount actually charged for programs.
[8] Amount that would have been charged for decoder rentals if each subscriber were required to pay $3.25 for each month.
[9] Amount actually charged for decoder rentals.

PART 2—ZENITH-TECO PROJECTIONS

10. In its comments, Zenith-Teco has prepared business projections illustrating the viability of STV under various assumptions. These statements show that an STV franchise would break even with 20,000 subscribers spending an average of $65 per year for programs and $39 for decoder rental. If the number of subscribers is more, or the average program expenditure is higher, the business shows profits as indicated:

[16] Commissioner Loevinger absent.

[1] FCC report and decision, Feb. 23, 1961; par. 8.

SUMMARY OF BUSINESS PROJECTIONS BY ZENITH-TECO

Number of subscribers and average program income	Sales ($000)	Cost of equipment ($000)	Profit before Federal Taxes		
			$000	Percent of Sales	Percent of cost of equipment
20,000 subscribers:					
$65 per year	2,120	2,711	1	0	0
$75 per year	2,320	2,711	119	5	4
40,000 subscribers:					
$65 per year	4,240	5,393	619	14	11
$75 per year	4,640	5,393	855	18	16
75,000 subscribers:					
$65 per year	7,950	10,087	1,780	22	18
$75 per year	8,700	10,087	2,223	26	22
100,000 subscribers:					
$65 per year	10,600	13,441	2,591	24	19
$75 per year	11,600	13,441	3,181	27	24

RESTATEMENT ON A "PER SUBSCRIBER" BASIS OF ZENITH-TECO'S BREAK-EVEN PROJECTION*

Variable data	*Per subscriber*
Income:	
Programs	$65.00
Decoder rental	39.00
Installation	[10] 2.00
Total income	106.00
Expenses:	
Program product	22.75
Sales and commissions	8.15
Franchise fee	†5.20
Technical	7.93
Taxes (other than Federal)	2.22
Supplies, truck, bad debts, other	3.10
Depreciation	‡27.09
Total variable expense	76.44
Gross margin before fixed expense	29.56
Fixed expenses: [11]	
Station time	300,000
Administrative salaries	94,000
Program staff	23,000
Lines and facilities	32,000
ASCAP and BMI fees	18,000
IBM equipment rental	88,000
Rent	15,000
Legal, audit, insurance, travel, telephone, utilities, dues, maintenance	20,000
Total fixed expenses	591,100

Break-even point: $591,100 ÷ $29.56, 20,000 subscribers.

*Prepared by Commission staff.

†5 percent of program and rental income.

‡Almost all for decoders.

[10] Zenith-Teco assumes 20 percent turnover, or 4,000 per year. This gives a total of $40,000 installation income, or $2.00 per subscriber (20,000).

[11] Some of these expenses listed as "fixed," actually do increase slightly with increased income.

11. The projections were made on the basis of the following assumptions:

Assumption 1. An STV system operating in a number of markets. Zenith-Teco state that STV franchise agreements have been entered into for the following cities with RKO: New York, Philadelphia, Washington, D.C., San Francisco, Hartford, and New Haven; with Marshall Field in Chicago and with Kaiser in Los Angeles. It is their opinion that a number of additional agreements, now in negotiation, will be concluded upon approval of nationwide STV by the Commission.

Assumption 2. STV will obtain a 10 percent market penetration. Based on this it is concluded that STV will be viable in the top 91 TV markets. At different levels of penetration (assuming the 20,000 subscriber break-even point) the number of viable markets is as follows:

50 percent penetration—Top 200 markets.
20 percent penetration—Top 170 markets.
10 percent penetration—Top 91 markets.
5 percent penetration—Top 46 markets.
3 percent penetration—Top 20 markets.

(10 percent penetration of the Hartford market would result in 74,000 subscribers)

Assumption 3. Program product cost will average 35 percent of program income. Based on the figures shown in paragraph 8, program product cost in Hartford was 38 percent of program income during the first year, 35 percent during the second and 38 percent during the third year. Motion pictures, which are exhibited in theaters for 33⅓ percent to 35 percent of the gross, were made available to STV in Hartford at the same prices.

Assumption 4. Station time will cost $300,000 for small STV systems and $400,000 for larger ones. Zenith-Teco anticipates paying $300,000 for its STV time to a TV licensee in markets which can support up to 40,000 subscribers (assuming 10 percent penetration) and paying $400,000 in markets which can support 75,000 (or more) subscribers.

Assumption 5. Decoder cost of $131.38 [12] and 5 years depreciation. This was the actual decoder cost in Hartford. On a 20,000 subscriber system (the break-even point) the annual depreciation of decoders would amount to $525,520.

Assumption 6. A turnover rate of 20 percent. Based on the Hartford experience "and anticipated changes in operating methods and practices." Also 15–20 percent turnover experienced by telephone companies. (Turnover rate in Hartford trial averaged 32 percent, see par. 7.)

Assumption 7. Program income will average a minimum of $65 a year and decoder rental income $39 a year per subscriber. Based on the Hartford experience adjusted to eliminate discounts and the assumption of a multimarket system resulting in more and better program product. This is also the basis for projections of program income of $70 and $75. (See par. 9 for Hartford discount experience and Conclusion 1 on inherent limit on spending. According to the Bureau of Labor Statistics [13] in 1960 and 1961 urban families with incomes between $4,000 and $10,000 spent an average of $30 a year and those with incomes of over $10,000 an average of $59 a year for movies, sporting events, concerts, plays, etc.)

PART 3—ZENITH-TECO CONCLUSIONS

Conclusion 1. STV will make available additional program choices to the viewing public. Box-office type television entertainment is not now available nor can it be available in the future on conventional TV.

Conclusion 2. STV will have minimal impact on audience for conventional TV. In Hartford, an average of 5.5 percent of all subscribers viewed STV programs. There seems to be an inherent limit on the amount of STV viewing the public will support. The loss of audience by conventional TV would be less than 5.5 percent of TV homes because the loss is limited to those homes which subscribe to STV and which otherwise would normally have been watching conventional TV had STV not been available.

Conclusion 3. Only one STV station in a market. WHCT in Hartford devoted an average of 30 hours per week to STV. This is expected to be typical of future STV operations due to the limited number of "box office" attractions and the size of the recreational budget. On the basis, in markets with three or more stations, STV could not absorb more than 10 to 15 percent of the total broadcast time. This limited time would probably result in but one STV station in the market.

Conclusion 4. STV will not siphon talent or existing programs from conventional TV. None of the Hartford programs were available on conventional TV anywhere in the country. No one can expect the public to pay for what someone else provides free. There are too many programs of the conventional entertainment type and the public's recreational budget is too limited to permit STV to pay more than sponsors are willing to pay for such programs. Talent and writers now often work for both the motion picture industry and conventional TV. Since subscription television merely substitutes the home TV receiver for the motion picture theater, there is no reason to believe that motion picture talent and writers would not still continue to work for conventional TV as they now do.

APPENDIX B—MEMORANDUM FROM CHIEF ENGINEER

SUBSCRIPTION TELEVISION—REASONS FOR SPECIFYING A SINGLE TECHNICAL SYSTEM

1. At least the following system performance characteristics are important to the selection of the best system for subscription television (STV):

(a) Interference potential to free TV, cochannel and adjacent channel.
(b) Relative susceptibility to interference.
(c) Suitability for color programs.
(d) Relative coverage area.
(e) Relative degradation of picture quality by the encoding and decoding processes.

2. We have very little data on the relative performance of STV systems regarding the foregoing characteristics. Due to the widely different scrambling methods devised, however, it is apparent that systems may have important differences in these aspects of performance. To our knowledge all TV systems use additional signals for encoding or scrambling. The additional power required for these signals, nature of the signals, and their position within the transmitted signal bandwidth, may cause more interference to other stations on cochannels or adjacent channels and may cause degradation of monochrome or color signal quality.

3. This office offers the following reasons for limiting STV to a single technical system:

A. It is important in broadcasting that receiving equipment used by the public be capable of utilizing signals from any station. All broadcast stations in any band are required to use a single system of transmission so that receivers need not be altered or complicated to receive different stations. Consequently, a single broadcast system is provided in each band. This requirement for a single system is equally applicable to STV broadcasting.

[12] Decoder price of $125 plus $6.38 for freight and use tax.

[13] "Consumer Expenditures and Income", Bureau of Labor Statistics, July 1964, p. 237.

B. If different STV systems are used, different decoding apparatus must be provided for the viewers to receive the several kinds of transmissions. This would be unnecessarily inconvenient and expensive for viewers desiring to receive several STV stations or for viewers who move to other localities in which different systems are used. Even if the decoders are rented to the viewers, the expense and inconvenience of renting and installing more than one decoder is an unwarranted burden on the viewers. Furthermore, if different kinds of decoders must be produced for the several systems, the price of each must be greater than if a single kind were produced in the greater quantity needed for a single system.

C. We believe that permitting different STV systems would tend to restrict competition, rather than stimulate it. Viewers who install decoders for one system would be unable, without additional expense and inconvenience, to receive the STV offerings of another station using a different system. Competition would, therefore, be inhibited by use of different STV systems, each with its own separate audience unable to select other STV offerings.

D. Competition between technical systems in broadcasting, if allowed to occur in the marketplace, might become a popularity contest which would be decided largely by the relative impact of the promotional efforts of the respective system proponents. Such a contest is not the best way to select the technical system. It, therefore, has been the Commission's function to specify the technical systems for broadcasting so that the public is not burdened with the inconvenience, confusion, and cost of choosing among various systems. In this instance, also, (STV) the competition between technical systems should take place before the Commission and should be decided by the Commission before the STV service is regularized, as has been done previously, e.g., in color TV, FM stereo, and the basic TV system itself.

E. It should be recognized that if a single system is not adopted for the entire country, the Commission will probably have to decide upon which system shall be used on a city-by-city basis. Such a case-by-case determination would also require detailed technical evaluation of the comparative merits of various systems, the promoters of which may be competing for a place in each of the major markets. Since the systems are, of course, not equal in merit, the problem also arises as to which cities shall have the superior system and where to put the inferior systems. We would also have to decide when a proposed system is sufficiently different from other systems to be considered as a separate system and not just an improvement or variation of another system. If we, in effect, announce our intent to provide opportunity for exploitation of patent rights for various systems, the effect would be to encourage a proliferation of "systems" or variations thereof. Consequently, the promoters of a "different" system might be given an advantage in competing for a place in a major market even though their system might be inferior to others.

F. As far as the idea of "equality of treatment" of patent-holders is concerned, it should be noted that in general, it is difficult or impossible to ascertain contemporaneously just who is "the patent-holder" of any system. This subject is so complex, technically, and legally, that we can do no more in this memorandum than to point out some significant factors involved in such a determination:

(1) A patent is issued only to the inventor of the system, apparatus or method.

(2) The patent gives the inventor the right, for 17 years, to prevent others from using his invention without his consent. It does not in itself give the inventor the right to use the invention.

(3) The inventor may prevent others from using his invention only by action in the courts; there is no other agency which adjudicates or enforces patent rights after issuance of the patent.

(4) The inventor may, and often does assign all or part of his patent rights to others, e.g., employer, manufacturer, etc. Such assignments must be recorded in the Patent Office.

(5) The inventor, or assignees, usually enter into license agreements whereby for payment of specified royalties the licensees may manufacture, sell or use the invention. Such licenses may be exclusive or nonexclusive and may include the right to sublicense others, etc. License agreements are not required to be recorded in the Patent Office but are sometimes so recorded.

(6) In general, no practical system can be used without the consent of the holders of rights to many different patents. Even though there may be a basic patent on the system, there will be many other patents covering subsystems and apparatus without which the system cannot operate. The necessary set of patents for a practical system will usually not be held by any one party.

(7) One party may, however, hold patent rights relating to several systems.

(8) Basic patents for systems, or for system improvements, may be issued long after the system has been adopted by the Commission. A basic patent for the NTSC color TV system, adopted by the Commission in 1953, was issued in 1963. A basic patent for the FM stereo system, adopted in 1961, was issued in 1964. Thus, at the time such systems were adopted, it was impossible to ascertain what parties if any would receive basic patent rights. Such long delays in issuance of a patent usually occur when there are mutually exclusive patent applications filed and the Patent Office must resolve the conflict.

(9) Before issuance of the patent, the patent application and related correspondence, pleadings, etc., are not open to inspection except by persons designated by the applicant. In fact, the very existence of a patent application is not usually made public while it is pending.

(10) While a patent application is pending, the applicant often attempts to and does negotiate license agreements with manufacturers and others, including collection of royalties before the patent is issued. This practice is, of course, speculative as it is not known at that time whether a patent will issue nor how extensive its coverage will be. Such agreements may provide more favorable terms for the licensee than he could get after the patent issues. The applicant does not have any patent rights until the patent issues, but may persuade other parties to become licensees and pay royalties while the patent is pending.

G. Our actions in this proceeding should be consistent with the Commission's Revised Patent Procedures adopted December 6, 1961, copy of which is attached. These revised procedures were adopted by the Commission only after thorough consideration of the many complex factors affecting patent rights, patent practices and their possible impact upon public use of systems specified by the Commission. These procedures are designed to prevent the public benefits of such systems from being derogated by unreasonable exercise of patent rights. They are also designed to avoid having the Commission assume a continuing burden of general analyses of relative patent positions of various parties. Such analyses would have to include exhaustive studies of the legal and technical aspects of many patents, the assignments of patent rights to others, licensing, cross-licensing, patent "pools", court decisions affecting patent validity, etc. All of these and other factors are continually changing as new patents are issued, licensing agreements are made or changed, etc. On the other hand, the Revised Patent Procedures have operated quite satisfactorily and have apparently satisfied congressional concern about these matters. We should, therefore, not deviate from these procedures in this instance without thorough prior consideration of corresponding revisions in these procedures.

4. From these consideratons, it therefore would appear preferable that the Commission adhere to its Revised Patent Procedures and adopt a single technical system for subscription television.

[Public Notice–G]

REVISED PATENT PROCEDURES OF FEDERAL COMMUNICATIONS COMMISSION

DECEMBER 6, 1961.

The Federal Communications Commission announces that it is strengthening its patent procedures to assure that the availability of broadcast equipment and radio apparatus meeting performance standards established by the Commission's rules and regulations will not be prejudiced by unreasonable royalty or licensing policies of patent holders. Essentially, the new procedure, which supplements existing patent procedures of long standing, provides for enlarging the staff in order that the Commission may keep currently abreast of all patents issued and technical developments in the communications field which may have an impact on technical standards approved by the Commission in the various services.

Under the Communications Act of 1934, as amended (47 U.S.C. 303(g)), the Commission is charged with the responsibility to "Study new uses for radio, provide for experimental uses of frequencies, and generally encourage the larger and more effective use of radio in the public interest." In this connection, the Commission promulgates technical standards for broadcasting and other radio communication services to establish requirements which its licensees must meet in order to provide the kind and quality of service desired. Such requirements may frequently be met only by the use of patented equipment. Therefore, in promulgating these technical standards and regulations, the Commission necessarily gives consideration to the effect of patent rights upon the availability of equipment that will meet the specified performance standards. In order to determine how these rights are exercised information relating to licensing and royalty agreements is essential.

The Commission's patent policy for a number of years has been to obtain patent information whenever it becomes relevant to a particular proceeding. For example, the Commission utilized this method of obtaining patent information from system proponents in recent rule-making proceedings to establish standards to permit FM broadcast stations to transmit stereophonic prorgams on a multiplex basis (Docket 13506). In addition, the Commission has required the principal common carriers, such as American Telephone & Telegraph Co., International Telephone & Telegraph Co., Radio Corp. of America, and Western Union to file semi-annual patent reports. These procedures will continue to be utilized.

In view of the rapid technological advances in the communications field, the Commission has determined to augment its staff in order to permit a regularized, continuing, and current study of new technical developments relevant to its jurisdiction. Patent Office publications and records and technical journals will be studied and information of interest will be compiled in the Commission's

files. Copies of relevant patents as issued will be secured. The Commission's staff will ascertain the assignment or licensing arrangements for significant patents either by examination of the Patent Office records or by direct inquiry to the patentee, licensees, or assignees.

Whenever it appears that the patent structure is or may be such as to indicate obstruction of the service to be provided under the technical standards promulgated by the Commission, this fact will be brought to the Commission's attention for early consideration and appropriate action.

Through these revised and strengthened procedures, the Commission believes that it will be able to secure the information necessary to protect fully the public interest in this all-important area.

APPENDIX C

1. It is proposed that the following new sections be added to Part 73 of Commission rules and regulations:

OVER-THE-AIR SUBSCRIPTION TELEVISION OPERATIONS

§ 73.641 Definitions.

(a) *Subscription television.* A system whereby subscription television broadcast programs are transmitted and received.

(b) *Subscription television broadcast program.* A television broadcast program intended to be received in intelligible form by members of the public only for a fee or charge.

§ 73.642 Licensing policies.

(a) Subscription television service may be provided only upon specific authorization therefor by the Commission. Such authorization will be issued only to:

(1) The licensee of a television broadcast station;

(2) The holder of a construction permit for a new television broadcast station; or

(3) An applicant for a construction permit for a new television broadcast station.

(b) Application for such authorizations shall be made in the manner and form prescribed by the Commission. If the Commission, upon consideration of such application finds that the public interest, convenience, and necessity would be served by the granting thereof, it will grant such application. In the event it is unable to make such a finding, the Commission will then formally designate the application for subscription television authorization for hearing and proceed pursuant to the provisions of section 309(e) of the Communications Act and the Commission's rules and regulations applicable thereto. The Commission may impose such conditions upon the grant as may be appropriate.

(c) Holders of subscription television authorizations shall complete construction of subscription television transmitting facilities within a period of 8 months after issuance of the authorization unless otherwise determined by the Commission upon proper showing in any particular case.

(d) A subscription television authorization will not be issued or renewed for a period longer than the regular license period of the applicant's television broadcast authorization.

(e) No subscription television authorization shall be granted to a television broadcast station licensee or permittee, or to an applicant for a construction permit for such a station, having any contract, arrangement or understanding, express or implied, which:

(1) Prevents it from rejecting or refusing any subscription television broadcast program which it reasonably believes to be unsatisfactory or unsuitable or contrary to the public interest; or substituting a subscription or conventional program which in its opinion is of greater local or national importance; or

(2) Delegates to any other person the right to schedule the hours of transmission of subscription programs: *Provided, however,* That this rule shall not prevent a licensee, permittee, or applicant from entering into an agreement or arrangement whereby it agrees to schedule a specific subscription television broadcast program at a specific time; or

(3) Prevents it from making a free choice of subscription programs, whatever their source; or

(4) Deprives it of the right of ultimate decision concerning the maximum amount of any subscription program charge or fee.

§ 73.643 General operating requirements.

(a) No commercial advertising announcements shall be carried during subscription television operations except for promotion of subscription television broadcast programs before and after such programs.

(b) Charges, terms, and conditions of service to subscribers shall be applied uniformly: *Provided, however,* That subscribers may be divided into reasonable classifications approved by the Commission, and the imposition of different sets of terms and conditions may be applied to subscribers in different classifications.

(c) Any television broadcast station licensee or permittee authorized to broadcast subscription programs shall broadcast, in addition to its subscription broadcasts, at least the minimum hours of programs required by § 73.651 of the rules.

(d) If a television broadcast station supplies the only Grade A signal to a community, not more than 15 percent of its nonprime broadcast time (including subscription and nonsubscription broadcast time during that period), and not more than 50 percent of its prime broadcasting time (including subscription and nonsubscription broadcast time during that period), may be devoted to subscription broadcasting; if it supplies the second or third Grade A signal, not more than 25 percent of its nonprime broadcast time, and 60 percent of its prime broadcast time; if it supplies the fourth Grade A signal, not more than 50 percent of its nonprime broadcast time, and 75 percent of its prime broadcast time; and if it is one of five or more stations supplying a Grade A signal to the community, there is no limitation on the amount of broadcast time that may be devoted to subscription broadcasting.

(e) Except as they may be otherwise waived by the Commission in authorizations issued hereunder, the rules applicable to regular television broadcast stations will be applicable to subscription television operations.

§ 73.644 Equipment and technical operating requirements.

(a) Subscription television equipment must be approved in advance by the Commission pursuant to the "type approval" and "type acceptance" procedures now established by Part 2, Subpart F—Equipment Type Approval and Type Acceptance—of the Commission's rules and regulations.

Additional proposed rules concerning equipment and technical operating requirements will be announced at a later date.

[F.R. Doc. 66-3327; Filed, Mar. 29, 1966; 8:45 a.m.]

[47 CFR Part 73]

[Docket No. 14229]

FOSTERING EXPANDED USE OF UHF TELEVISION CHANNELS

Order Extending Time for Filing Comments and Reply Comments

1. In the further notice of proposed rule making, adopted February 9, 1966, in this proceeding (FCC 66-138), the Commission invited interested parties to file comments on or before March 28, 1966, and reply comments on or before April 15, 1966, with respect to eight petitions for changes in the Television Table of Assignments.

2. One of the proposed changes is the addition of a UHF channel at Kennewick, Wash. (RM-879), with respect to which Cascade Broadcasting Co., licensee of Station KEPR-TV, Channel 19, Pasco, Wash., wishes to file comment. Because of other commitments, Cascade's counsel has requested that the respective dates for comments and reply comments be extended to April 8, and May 1, 1966.

3. It appears that good cause has been shown for brief extensions. *Accordingly, it is ordered,* That insofar as concerns assignment of Channel 42 to Kennewick, Wash., the time for filing comments is extended from March 28, to April 8, 1966, and the time for filing reply comments from April 15, to April 22, 1966.

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

Adopted: March 24, 1966.

Released: March 25, 1966.

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

[F.R. Doc. 66-3397; Filed, Mar. 29, 1966; 8:50 a.m.]

[47 CFR Part 73]

[Docket No. 16212]

TABLE OF ASSIGNMENTS, FM BROADCAST STATIONS

Order Extending Time To File Comments and Reply Comments

In the matter of amendment of § 73.202 Table of Assignments, FM Broadcast Stations (Carrollton, Ky., Columbia, Tenn., San Clemente and Lancaster, Calif., Providence, R.I., Salt Lake City and Tooele, Utah, Carroll, Cherokee, and Algona, Iowa, Nacogdoches and Lufkin, Tex., Charleroi and Uniontown, Pa., Clarksburg, Fairmont, Morgantown, and New Martinsville, W. Va., Denison, Iowa, Immokalee, Fla., New London, Neenah-Menasha, and Green Bay, Wis., Mason City, Iowa, and Austin, Minn.); Docket No. 16212, RM-818, RM-819, RM-816, RM-830, RM-822, RM-808, RM-817, RM-837, RM-825, RM-838, RM-841, RM-844, RM-918, RM-860.

1. On February 28, 1966, the Commission issued a further notice of proposed rule making (FCC 66-191) in the above-entitled matter which specified that comments were to be filed on the matters remaining in this proceeding, RM-838 and 918, on or before March 31, 1966, and reply comments on or before April 4, 1966. In a motion for extension of time filed on March 22, 1966, Minnesota-Iowa Television Co., licensee of Stations KAUS and KMMT (TV), Austin, Minn., requests that the time for filing comments in this proceeding be extended to April 29, 1966, and for replies to May 11, 1966. Petitioner points out that the proposal to substitute 291 for 260 at Austin will restrict the selection of a site and states that it is having its consulting engineer make a study of the allocations in the area to remove this restriction. It urges that due to the forthcoming NAB convention and the work load of the engineer, additional time will be needed to complete this study and prepare comments in this proceeding.

2. The Commission is of the view that the extension requested in this case is warranted and would serve the public interest.

3. *Accordingly, it is ordered,* That the time for filing comments and reply comments in this proceeding, insofar as RM-838 and 918 only are concerned, is extended from March 31, 1966, and April 11, 1966, to April 29, 1966, and May 9, 1966, respectively.

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

Adopted: March 23, 1966.

Released: March 25, 1966.

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

[F.R. Doc. 66-3398; Filed, Mar. 29, 1966; 8:50 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

[Antidumping—AC 643.3–b]

WHOLE FROZEN EGGS FROM UNITED KINGDOM

Withholding of Appraisement Notice

MARCH 24, 1966.

Pursuant to section 201(b) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(b)), notice is hereby given that there are reasonable grounds to believe or suspect, from information presented to me, that the purchase price or the exporter's sales price is less or likely to be less than the foreign market value or constructed value of whole frozen eggs from the United Kingdom. The appropriate bases of comparison will be published in a supplemental notice in the FEDERAL REGISTER as soon as possible.

Customs officers are being directed to withhold appraisement of whole frozen eggs imported from the United Kingdom in accordance with the provisions of § 14.9(a) of the customs regulations (19 CFR 14.9(a)).

The information alleging that the merchandise under consideration was being sold at less than fair value within the meaning of the Antidumping Act was received in proper form on March 11, 1966. This information was the subject of an "Antidumping Proceeding Notice" which was published pursuant to § 14.6(d), customs regulations (19 CFR 14.6(d)), in the FEDERAL REGISTER of March 29, 1966.

This notice is published pursuant to § 14.6(e) of the customs regulations (19 CFR 14.6(e)).

[SEAL] LESTER D. JOHNSON,
Commissioner of Customs.

[F.R. Doc. 66–3375; Filed, Mar. 29, 1966; 8:48 a.m.]

Fiscal Service

COMMISSIONER OF ACCOUNTS

Order of Succession and Delegation of Authority Under Emergent Conditions

By virtue of the authority vested in me by Treasury Department Order No. 129, Revision No. 2, dated April 22, 1955 (20 F.R. 2875), it is hereby ordered that the following officials of the Bureau of Accounts, in the order of succession enumerated herein, shall have the authority to act as Commissioner of Accounts and to perform all the functions of that office, during the absence or disability of the Commissioner of Accounts or when there is a vacancy in such office:

1. Assistant Commissioner of Accounts.
2. Comptroller.
3. Chief Disbursing Officer.
4. Deputy Commissioner for Central Accounts and Reports.
5. Deputy Commissioner for Deposits and Investments.
6. Deputy Chief Disbursing Officer.
7. Assistant Comptroller.
8. Regional Disbursing Officer, Washington, D.C.
9. Regional Disbursing Officer, Philadelphia, Pa.
10. Regional Disbursing Officer, Chicago, Ill.

In the event of an enemy attack on the continental United States, the Chief Disbursing Officer, each Regional Disbursing Officer in charge of a Bureau of Accounts Regional Office, or in their absence, such officer as is authorized to act in their place, is authorized to make such provisions as are necessary to insure continuous performance of all the functions of the Bureau of Accounts now or hereafter assigned to such Regional Office. This authority, under the conditions specified, will authorize the Chief Disbursing Officer, each Regional Disbursing Officer, or in their absence the officers authorized to act for them, to take any action with respect to the functions performed in his office that the Secretary of the Treasury, the Commissioner of Accounts or any of their subordinate officers would be authorized to take.

This Order supersedes the previous Order of this Bureau, dated April 26, 1965 (30 F.R. 6361).

Dated: March 16, 1966.

[SEAL] S. S. SOKOL,
Commissioner of Accounts.

[F.R. Doc. 66–3376; Filed, Mar. 29, 1966; 8:48 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Arizona 035731]

ARIZONA

Notice of Proposed Withdrawal and Reservation of Lands

The Forest Service, Department of Agriculture, has filed an application, Serial Number Arizona 035731, for the withdrawal of the land described below, from location and entry under the general mining laws, subject to existing valid claims.

The Forest Service desires the land for recreation purposes, related recreation facilities, and scenic zones in the Knoll Lake Recreation Area within the Coconino and Sitgreaves National Forests, Ariz.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal, may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 3022 Federal Building, Phoenix, Ariz., 85025.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

GILA AND SALT RIVER MERIDIAN, ARIZ.

T. 12 N., R. 12 E.,
Sec. 15, W½W½;
Sec. 16, E½, E½NW¼, SW¼NW¼, SW¼;
Sec 17, SE¼NE¼, NE¼SE¼;
Sec. 21, NE¼, N½NW¼, NW¼SE¼;
Sec. 22, NW¼NW¼.

The areas described above aggregate approximately 670.40 acres in the Coconino National Forest, and approximately 489.60 acres in the Sitgreaves National Forest; all within Coconino County.

RILEY E. FOREMAN,
Acting State Director.

MARCH 18, 1966.

[F.R. Doc. 66–3356; Filed, Mar. 29, 1966; 8:46 a.m.]

CALIFORNIA

Notice of Proposed Withdrawal and Reservation of Lands

MARCH 22, 1966.

The Forest Service, U.S. Department of Agriculture, has filed an application, Serial Number Riverside 07520, for the withdrawal of lands described below from prospecting, location, entry and purchase under the mining laws, subject to valid claims and existing withdrawals.

The lands have previously been withdrawn for the San Bernardino Timber Reserve by Presidential Proclamation No. 48 of February 25, 1893, now San Bernardino National Forest, and as such have been open to entry under the general mining laws.

The applicant desires the exclusion of mining activity to permit use of such lands for winter sports areas and related recreational activities, which use is incompatible with mineral development.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 1414 8th Street, Box 723, Riverside, Calif., 92502.

The Department's regulations (43 CFR 2311.1–3(c)) provide that the authorized

officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's need, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

CALIFORNIA

SAN BERNARDINO MERIDIAN

Snow Summit and Moonridge Winter Sports Area

T. 2 N., R. 1 E.,
Sec. 26, S½SW¼;
Sec. 27, S½S½;
Sec. 28, SW¼NE¼, NW¼NW¼, S½NW¼, S½;
Sec. 29, E½;
Sec. 32, N½N½NE¼;
Sec. 33, NE¼NE¼, E½NW¼NE¼, N½SE¼NE¼, SE¼SE¼NE¼;
Sec. 34, N½, N½SW¼, NE¼SE¼, N½SE¼SE¼, SE¼SE¼SE¼;
Sec. 35, SW¼NE¼, W½, W½SE¼.

Snow Forest Winter Sports Area

T. 2 N., R. 1 E.,
Sec. 30, NW¼NE¼, SW¼NE¼, W½SE¼NE¼, E½NE¼SW¼, NE¼SE¼SW¼, W½NE¼SE¼, NW¼SE¼, N½SW¼SE¼, NW¼SE¼SE¼.

The areas described aggregate 2,340 acres, more or less.

HALL H. MCCLAIN,
Manager.

[F.R. Doc. 66-3374; Filed, Mar. 29, 1966; 8:48 a.m.]

Fish and Wildlife Service

[Docket No. Sub-B-40]

GRACE & PHILIP, INC.

Notice of Hearing

Grace & Philip, Inc., 159 Washington Street, Gloucester, Mass., 01930, have applied for a fishing vessel construction differential subsidy to aid in the construction of a 110-foot overall length wood vessel to engage in the fishery for groundfish, whiting, ocean catfish, flounder and other flat fishes, porgy, herring and other species for industrial uses.

Notice is hereby given pursuant to the provisions of the United States Fishing Fleet Improvement Act (P.L. 88-498) and Notice and Hearing on Subsidies (50 CFR Part 257) that a hearing in the above-entitled proceedings will be held on May 10, 1966, at 10 a.m., e.d.s.t., in Room 3356, Interior Building, 18th and C Streets NW., Washington, D.C. Any person desiring to intervene must file a petition of intervention with the Director, Bureau of Commercial Fisheries, as prescribed in 50 CFR Part 257 at least 10 days prior to the date set for the hearing. If such petition of intervention is granted, the place of the hearing may be changed to a field location. Telegraphic notice will be given to the parties in the event of such a change along with the new location.

H. E. CROWTHER,
Acting Director,
Bureau of Commercial Fisheries.

MARCH 25, 1966.

[F.R. Doc. 66-3363; Filed, Mar. 29, 1966; 8:47 a.m.]

Office of Secretary

IMPORTS INTO PUERTO RICO OF CRUDE OIL AND UNFINISHED OILS

Maximum Level

Pursuant to paragraph (c) of section 2 of Proclamation 3279, as amended, for the allocation period April 1, 1966, through March 31, 1967, the maximum level of imports of crude oil and unfinished oils into Puerto Rico is established at 175,288 B/D. Of this amount 138,115 B/D is allocated to Commonwealth Oil Refining Co., Inc.; 36,348 B/D is allocated to Gulf Oil Corp.; and 765 B/D is allocated to W. R. Grace & Co.

STEWART L. UDALL,
Secretary of the Interior.

MARCH 28, 1966.

[F.R. Doc. 66-3436; Filed, Mar. 29, 1966; 8:50 a.m.]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

NORTH DAKOTA

Designation of Area for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named county in the State of North Dakota natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

NORTH DAKOTA

Grand Forks.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named county after December 31, 1966, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 25th day of March 1966.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 66-3367; Filed, Mar. 29, 1966; 8:47 a.m.]

DEPARTMENT OF COMMERCE

Maritime Administration

AMERICAN EXPORT ISBRANDTSEN LINES, INC.

Notice of Application for Approval of Certain Cruises

Notice is hereby given that American Export Isbrandtsen Lines, Inc., acting pursuant to Public Law 87-45, has applied to the Maritime Administration for approval of the following cruises by the *SS Independence:*

Cruise dates, 1966	*Itinerary*
August 13-16	New York, Nassau, Port Everglades.
August 16-20	Port Everglades, Nassau, New York.

The foregoing cruises are in lieu of the August 13, 1966 cruise of the *SS Independence* previously published in the FEDERAL REGISTER on February 1, 1966 (31 F.R. 1254) and approved by the Maritime Subsidy Board on February 23, 1966.

Any person, firm, or corporation having an interest, within the meaning of Public Law 87-45, in the foregoing who desires to offer data, views, and arguments should submit the same in writing, in triplicate, to the Secretary, Maritime Subsidy Board, Washington, D.C., 20235, by the close of business on April 5, 1966. In the event an opportunity to present oral argument is also desired, specific reason for such request should also be included. The Maritime Subsidy Board will consider these comments and views and take such action with respect thereto as in its discretion it deems warranted.

Dated: March 24, 1966.

By Order of the Maritime Subsidy Board.

JOHN M. O'CONNELL,
Assistant Secretary.

[F.R. Doc. 66-3369; Filed, Mar. 29, 1966; 8:47 a.m.]

MOORE-McCORMACK LINES, INC.

Notice of Application for Change in Cruise Program

Notice is hereby given that Moore-McCormack Lines, Inc., has requested certain changes in its cruise program for calendar year 1966 as previously published in the FEDERAL REGISTERS of June 26, 1965 (30 F.R. 8238) and of November

18, 1965 (30 F.R. 14445) and approved by the Maritime Subsidy Board on August 24, 1965, and on January 5, 1966. The cruises now proposed for the period commencing October 12, 1966, are as follows:

Ship	Commences 1966	Terminates 1966	Itinerary
Brasil	Oct. 12	Oct. 27	New York, Boston, San Juan, St. Thomas, Martinique, Trinidad, Barbados, Bermuda, New York.
Do	Oct. 28	Nov. 10	New York, San Juan, St. Thomas, Trinidad, Barbados, Martinique, Bermuda, New York.
Do	Nov. 11	Nov. 17	New York, San Juan, St. Thomas, New York.
Argentina	Nov. 30	Dec. 4	New York, Nassau, Port Everglades.
Do	Dec. 5	Dec. 11	Port Everglades, Kingston, Curacao, Port Everglades.
Do	Dec. 12	Dec. 22	Port Everglades, Curacao, Barbados, Martinique, St. Thomas, San Juan, Port Everglades.
		1967	
Do	Dec. 23	Jan. 4	Port Everglades, Cristobal, Curacao, Trinidad, Barbados, San Juan, Port Everglades.

Any person, firm, or corporation having any interest, within the meaning of Public Law 87–45, in the foregoing who desires to offer data, views, or arguments should submit the same in writing, in triplicate to the Secretary, Maritime Subsidy Board, Washington, D.C., 20235, by close of business on April 5, 1966. In the event an opportunity to present oral argument is also desired, specific reason for such request should be included. The Maritime Subsidy Board will consider these comments and views and take such action with respect thereto as in its discretion it deems warranted.

Dated: March 24, 1966.

By order of the Maritime Subsidy Board.

JOHN M. O'CONNELL,
Assistant Secretary.

[F.R. Doc. 66–3370; Filed, Mar. 29, 1966; 8:47 a.m.]

National Bureau of Standards

NBS RADIO STATIONS

U.S. Standard Frequency and Time Broadcasts

In accordance with National Bureau of Standards policy of giving monthly notices regarding changes of phases in seconds pulses, notice is hereby given that there will be no change in the phase of seconds pulses emitted from radio station WWVB, Fort Collins, Colo., on 1 May 1966.

Notice is also hereby given that there will be no change in the phase of time pulses emitted from radio station WWV, Greenbelt, Md., and WWVH, Maui, Hawaii, on 1 May 1966. These pulses at present occur at intervals which are longer than one second by 300 parts in 10^{10}. This is due to the offset maintained in frequency, as coordinated by the Bureau International de l'Heure (BIH).

A. V. ASTIN,
Director.

MARCH 21, 1966.

[F.R. Doc. 66–3372; Filed, Mar. 29, 1966; 8:47 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 16916]

MODERN AIR TRANSPORT, INC.

Acquisition of Control; Notice of Hearing

Notice is given herewith, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that public hearing in the above-entitled proceeding will be held before the undersigned examiner on April 14, 1966, at 10 a.m., e.s.t., in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served herein on March 22, 1966, and to 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., March 24, 1966.

[SEAL] RICHARD A. WALSH,
Hearing Examiner.

[F.R. Doc. 66–3390; Filed, Mar. 29, 1966; 8:49 a.m.]

[Docket No. 16349]

DOMESTIC SERVICE MAIL RATE INVESTIGATION

Notice of Hearing

Notice is hereby given, pursuant to the Federal Aviation Act of 1958, as amended, that the above-entitled proceeding is hereby assigned for hearing on April 26, 1966, at 10 a.m., in Room 726, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before Examiner Ralph L. Wiser.

In this proceeding, the Board will fix and determine the fair and reasonable rates of compensation to be paid by the Postmaster General for the carriage of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, on and after January 1, 1967, between:

(a) Points within the 48 contiguous States and the District of Columbia;

(b) Points within the 48 contiguous States and the District of Columbia, on the one hand, and terminal points in Canada, on the other;

(c) Points within the 48 contiguous States and the District of Columbia, on the one hand, and Hawaii, on the other;

(d) Points within the 48 contiguous States and the District of Columbia, on the one hand, and, on the other:

(i) San Juan, P.R.;

(ii) Mexico City, Mexico;

(iii) Monterey, Mexico;

(iv) Acapulco, Mexico.

The hearing at this time will be concerned with compensation for airmail on and after January 1, 1967, assuming that the merger of airmail and first-class mail into a single class of priority mail proposed by the Postmaster General has not been accomplished. The time and place for hearing with respect to fixing and determining rates of compensation to be paid for transporting such priority mail by aircraft will be announced at a future time.

For further details with respect to the issues involved in this proceeding, interested persons are referred to the orders and notices entered by the Board and the examiner, the documents filed by the parties, and the examiner's prehearing conference report served November 15, 1965, and supplemental report served November 30, 1965, all of which are on file with the Docket Section of the Civil Aeronautics Board.

Notice is further given that any person other than the parties of record desiring to be heard in this proceeding shall file with the Board on or before April 19, 1966, a statement setting forth the issues of fact or law raised by this proceeding which he desires to controvert.

Dated at Washington, D.C., March 24, 1966.

[SEAL] RALPH L. WISER,
Hearing Examiner.

[F.R. Doc. 66–3391; Filed, Mar. 29, 1966; 8:49 a.m.]

[Docket No. 17106]

JAPAN AIR LINES COMPANY, LTD.

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on April 6, 1966, at 10 a.m., e.s.t., in Room 925, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before Examiner Joseph L. Fitzmaurice.

Dated at Washington, D.C., March 25, 1966.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 66–3392; Filed, Mar. 29, 1966; 8:49 a.m.]

[Docket No. 16901, etc.]

LOS ANGELES/CHICAGO-TORONTO SERVICE CASE

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a public hearing in the above-entitled proceeding is assigned to be held on April 25, 1966, at 10 a.m., e.d.s.t., in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the undersigned examiner.

For information concerning the issues involved and other details of this proceeding, interested persons are referred to the prehearing conference report served on February 28, 1966, and all other documents which are in the docket of this case on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., March 24, 1966.

[SEAL] EDWARD T. STODOLA,
Hearing Examiner.

[F.R. Doc. 66-3393; Filed, Mar. 29, 1966; 8:49 a.m.]

[Docket No. 17059]

AEROLINEAS PERUANAS, S. A. (APSA)

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that hearing in the above-entitled proceeding is assigned to be held on April 12, 1966, at 10 a.m., e.s.t., in Room 911, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before the undersigned examiner.

Dated at Washington, D.C., March 24, 1966.

[SEAL] WALTER W. BRYAN,
Hearing Examiner.

[F.R. Doc. 66-3394; Filed, Mar. 29, 1966; 8:49 a.m.]

[Docket 13577 etc.]

TRANSATLANTIC ROUTE RENEWAL CASE (SERVICE TO DUBLIN, IRELAND)

Notice of Postponement of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in the above-entitled matter now assigned to be heard on March 30, 1966, is postponed to April 20, 1966, 10 a.m., e.s.t., in Room 1027, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before the Board.

Dated at Washington, D.C., March 28, 1966.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 66-3444; Filed, Mar. 29, 1966; 8:50 a.m.]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority 30; Kansas City Region, Rev. 1, Amdt. 1]

KANSAS CITY REGIONAL OFFICE

Delegation of Authority To Conduct Program Activities

Pursuant to the authority delegated to the Regional Director by Delegation of Authority 30 F.R. 3252; 30 F.R. 13556; and 30 F.R. 14062; Delegation of Authority 30 F.R. 17184 is hereby amended to add the following authority as Item I.G.:

I. * * *

G. *To Loan Specialists GS-9 and above assigned to all financial assistance division programs in all offices of this region.* Final authority to approve the following actions concerning current direct or participation loans:

1. Use of the cash surrender value of life insurance to pay the premium on the policy.

2. Release of dividends of life insurance or consent to application against premiums.

3. Minor modifications in the authorization.

4. Extension of disbursement period.

5. Extension of initial principal payments.

6. Adjustment of interest payment dates.

7. Release of hazard insurance checks not in excess of $200 and endorse such checks on behalf of the agency where SBA is named as joint loss payee.

Effective date. March 14, 1966.

C. I. MOYER,
Regional Director,
Kansas City Regional Office.

[F.R. Doc. 66-3395; Filed, Mar. 29, 1966; 8:49 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

NEW DRUGS

Notice of Approval of Applications

As provided in § 130.33 of the new-drug regulations (21 CFR 130.33), notice is given of the following new drugs for which applications, or supplemental applications for substantive labeling changes, have been approved on the dates specified:

DRUGS FOR HUMAN USE

Active ingredients (as declared on label)	Trade name or other designated name and dosage form	Principal indication or pharmacological category	Applicant	Date approved	How dispensed [1]
Dexamethasone, 0.25 mg.; meprobamate, 200 mg.	Decebamate (tablet).	Corticosteroid, tranquilizer.	Merck Sharp & Dohme, Division of Merck & Co., Inc.	Jan. 25, 1965 [2]	Rx
Flurandrenolone, 0.05 percent.	Cordran Lotion (lotion).	Corticosteroid, topical.	The Lilly Research Laboratories, Eli Lilly & Co.	Apr. 26, 1965 [2]	Rx
Cyanocobalamin, 500 micrograms per ml.; tannic acid, 2.3 mg. per ml.; and zinc (acetate), 1.0 mg. per ml.	Depinar (injection).	Vitamin	Armour Pharmaceutical Co.	June 3, 1965 [2]	Rx
Flurandrenolone, 0.025 percent.	Cordran (cream)	Corticosteroid	The Lilly Research Laboratories, Eli Lilly & Co.	July 28, 1965 [2]	Rx
Tranylcypromine, as the sulfate, 10 mg.	Parnate (tablet)	Monoamine oxidase inhibitor.	Smith Kline & French Laboratories.	Aug. 27, 1965 [2]	Rx
Hydroxychloroquine sulfate, 60 mg.; aspirin, 300 mg.	Planolar (tablet)	Rheumatoid arthritis.	Winthrop Laboratories.	Sept. 9, 1965 [2]	Rx
Sulfaphenazole, 0.5 gm.	Sulfabid (tablet)	Antibacterial	The Purdue Frederick Co.	Sept. 15, 1965 [2]	Rx
Sulfaphenazole, 0.5 gm. per 5 cc.	Sulfabid Suspension (oral suspension).	Antibacterial	The Purdue Frederick Co.	do [2]	Rx
Isoflurophate, 0.025 percent.	Floropryl (opthalmic ointment).	Parasympathomimetic (cholinesterase inactivator).	Merck Sharp & Dohme, division of Merck & Co.	Nov. 22, 1965 [2]	Rx
Methaqualone, 150 mg.	Quaalude (tablet)	Sedative-hypnotic.	William H. Rorer, Inc.	Nov. 23, 1965	Rx
Hydrochlorothiazide, 25 mg.; triamterene, 50 mg.	Dyazide (capsule).	Diuretic	Smith Kline & French Laboratories.	Dec. 2, 1965	Rx
Pyrrocaine hydrochloride, 2 percent per cc. with epinephrine 1:100,000; 1:150,000; or 1:250,000.	Dynacaine (injection).	Local anesthetic for dental use.	Graham Chemical Corp.	Dec. 15, 1965 [2]	Rx
Potassium chloride, 0.37 gm. per 1000 ml.; sodium chloride, 1.75 gm. per 1000 ml.; trometh amine, 36.00 gm. per 1000 ml.	Tham-E (sterile lyophilized powder for intravenous use).	For systemic acidosis in cardiac bypass surgery and cardiac arrest.	Abbott Laboratories, Scientific Divisions.	Dec. 16, 1965	Rx

See footnotes at end of table.

DRUGS FOR HUMAN USE

Active ingredients (as declared on label)	Trade name or other designated name and dosage form	Principal indication or pharmacological category	Applicant	Date approved	How dispensed [1]
Dexamethasone 21 phosphate (as the disodium salt), 18 mg. (equivalent to 15 mg. of dexamethasone).	Turbinaire Decadron Phosphate (intranasal aerosol).	Corticosteroid; antiallergic-antiinflammatory agent.	Merck Sharp & Dohme, division of Merck & Co., Inc.	Dec. 17, 1965	R_x
Proplomazine hydrochloride, 20 mg. per cc.	Largon (injection).	CNS depressant; adjunct to anesthesia with sedative properties.	Wyeth Laboratories	do	R_x
Hydrochlorothiazide, 50 mg.	Thiaretic (tablet).	Diuretic; antihypertensive.	The Blue Line Chemical Co.	Dec. 23, 1965	R_x
Nonylphenoxypolyethoxyethanol, 5 percent.	Delfen Vaginal Cream (vaginal cream).	Contraceptive	Ortho Pharmaceutical Corp.	Dec. 30, 1965	OTC
Perphenazine, 2 mg., and amitriptyline hydrochloride, 25 mg.; perphemazine, 4 mg., and amitriptyline hydrochloride, 10 mg.; perphenazine, 4 mg., and amitriptyline hydrochloride, 25 mg.	Etrafon, Etrafon-A, and Etrafon-Forte, respectively (tablets).	Tranquilizer; antidepressant.	Schering Corp.	do	R_x
L-Arginine monohydrochloride, 5 percent solution.	R-Gene (injection).	Hepatic coma	Cutter Laboratories	Jan. 3, 1966 [2]	R_x
Hydrochlorothiazide, 25 mg.; spironolactone, 25 mg.	Aldactazide (tablet).	Diuretic; antihypertensive.	G. D. Searle & Co.	do [2]	R_x
Spironolactone, 25 mg.	Aldactone (tablet).	do	do	do [2]	R_x
Hydrocortisone, 100 mg. per 60 cc. (disposable unit).	Cortenema (retention enema).	Rectal steroid therapy; adjunct in the treatment of ulcerative colitis.	Rowell Laboratories, Inc.	Jan. 12, 1966	R_x
Isoproterenol hydrochloride, 4 mg. per cc.; phenylephrine bitartrate, 6 mg. per cc.	Duo-Medihaler (oral inhalant, aerosol).	Bronchodilator	Riker Laboratories	Jan. 13, 1966 [2]	R_x
Isocarboxazid, 10 mg.	Marplan (tablet)	Antidepressant	Hoffman-La Roche, Inc.	Jan. 17, 1966 [2]	R_x
Sodium tolbutamide, 250 mg.	Oral Orinase Diagnostic (tablet).	Diagnostic agent for mild diabetes mellitus.	The Upjohn Co.	do	R_x
Mepivacaine hydrochloride, 4 percent.	Carbocaine Hydrochloride Sterile Isobaric Solution 4 percent (injection).	For spinal anesthesia.	Winthrop Laboratories, division of Sterling Drug, Inc.	Jan. 18, 1966	R_x
Oxyphencyclimine hydrochloride, 10 mg.; oxyphencyclimine hydrochloride, 10 mg., and phenobarbital, 30 mg.	Vio-Thene; Vio-Thene with Phenobarbital (tablet).	Anticholinergic	Rowell Laboratories, Inc.	do [2]	R_x
Thioguanine, 40 mg.	"Tabloid" Brand Thioguanine (tablet).	Antileukemic	Burroughs Wellcome & Co., (U.S.A.) Inc.	do	Rx
Aspirin, 650 mg. (10 gr.).	Duramax (sustained action tablet).	Analgesic	Grove Laboratories, division of Bristol-Meyers Co.	Jan. 20, 1966	OTC
Methylprednisolone, 20 mg. and 40 mg. per cc.	Depo-Medrol (injection).	Corticosteroid	The Upjohn Co.	Jan. 24, 1966 [2]	R_x
Methylprednisolone, 0.25 percent and 1 percent.	Veriderm Medrol Acetate (ointment).	Corticosteroid, anti-inflammatory agent.	do	do [2]	R_x
Vitamin K_3 (4-amino-2-methyl-1-naphthol as the hydrochloride), 1 mg. per cc.	Synkamin (injectable).	Treatment of hypo-prothrombinemia.	Parke, Davis & Co.	Jan. 27, 1966 [2]	R_x
Vitamin K_3 (4-amino-2-methyl-1-naphthol as the hydrochloride), 4 mg. per kapseal.	Kapseal Synkamin (capsule).	Treatment of hypoprothrombinemia.	Parke, Davis & Co.	Feb. 3, 1966 [2]	R_x

[1] The abbreviation "R_x" means restricted by law to prescription only; the abbreviation "OTC" applies to drugs that by law are not required to be sold on prescription.
[2] Supplemental application, labeling change.

Dated: March 21, 1966.

J. K. KIRK,
Assistant Commissioner for Operations.

[F.R. Doc. 66-3286; Filed, Mar. 29, 1966; 8:45 a.m.]

GEIGY CHEMICAL CORP.

Notice of Filing of Petition Regarding Pesticides

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 6F0482) has been filed by Geigy Chemical Corp., Post Office Box 430, Yonkers, N.Y., 10702, proposing the establishment of tolerances of 40 parts per million for residues of the insecticide *0,0*-diethyl *0*-(2-isopropyl-4-methyl-6-pyrimidinyl) phosphorothioate in or on pineapple forage, sorghum forage, and sorghum grain.

The analytical method proposed in the petition for determining residues of the insecticide is a sulfide method which includes the following steps: The residue is extracted with petroleum ether and after suitable cleanup is transferred to hydrobromic acid. The solution is then boiled, converting the sulfur to hydrogen sulfide. The hydrogen sulfide is trapped in zinc acetate solution and determined spectrophotometrically at 670 millimicrons as methylene blue. Residues are also determined by a microcoulometric gas chromatograph.

Dated: March 23, 1966.

J. K. KIRK,
Assistant Commissioner for Operations.

[F.R. Doc. 66-3407; Filed, Mar. 29, 1966; 8:50 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 16368, 16369; FCC 66R-117]

CENTRAL BROADCASTING CORP. AND SECOND THURSDAY CORP.

Memorandum Opinion and Order Enlarging Issues

In re applications of central Broadcasting Corp., Madison, Tenn., Docket No. 16368, File No. BPH-3773; Second Thursday Corp., Nashville, Tenn., Docket No. 16369, File No. BPH-3778; for construction permits.

1. The Review Board has before it a petition to enlarge issues, filed January 19, 1966, by Central Broadcasting Corp. (Central)[1] seeking to add an issue concerning whether Second Thursday Corp. (Second Thursday) is prosecuting its application in good faith.

[1] Also before the Board are: (a) Opposition to petition to enlarge issues, filed Feb. 14, 1966, by Second Thursday Corp.; (b) opposition to petition to enlarge issues, filed Feb. 14, 1966, by the Broadcast Bureau; and (c) reply to oppositions, filed Feb. 21, 1966, by Central.

2. Central is an applicant for a construction permit for FM Channel 225 in Madison, Tenn.; Second Thursday is applying for the same channel in Nashville. The latter is the licensee of standard broadcast Station WWGM, Nashville. This proceeding was designated for hearing by order, FCC 65–1123, released December 20, 1965.

3. In its petition, Central alleges that Second Thursday intends to sell its standard broadcasting station in Nashville. This allegation is supported by an unverified letter concerning the possible sale of WWGM written by J. William Chapman, a broadcast broker. Central also contends that lack of good faith has been shown by Second Thursday's failure to demonstrate adequate funds to construct and operate its proposal and by failure to amend its application to reflect a change in ownership and increased costs due to the proposed use of better equipment. As proof, Central relies on changes which were actually reported in an interim ownership report and engineering modifications which were made in the application but which were not shown to have altered Second Thursday's financial requirements. Finally, Central urges that all of these factors, when viewed as a totality, present a challenge to the bona fides of Second Thursday.

4. Second Thursday replies that its failure to amend the application was the result of inadvertence, that a financial issue has already been designated and will be met, and that the listing of the AM station does not prove anything in and of itself respecting the bona fides of the applicant. It says the authorization to list WWGM for sale has been rescinded; it must be noted, however, that this rescission came subsequent to the filing of the petition to enlarge. The Broadcast Bureau opposes the petition on the ground that the allegations are not supported by an affidavit from someone with personal knowledge thereof as required by § 1.229(c) of the rules.

5. The fact that Station WWGM has been listed for sale does not impugn Second Thursday's good faith. There is absolutely no allegation that a sale of the AM station would necessarily be accompanied by a failure to further prosecute the present FM application. Central's argument is founded on surmise and speculation and its request for a good faith issue will be denied. See KWEN Broadcasting Co., FCC 62–728, 23 RR 974. However, Second Thursday's failure to amend its application to reflect the change in corporate ownership and the change in its financial requirements due to a change in equipment[2] cannot be overlooked. Section 1.65 of the Commission's rules places a burden of continuing accuracy upon each applicant and requires that changes be reflected by amendments within 30 days unless good cause is shown. Reporting Changed Circumstances, FCC 64–1037, 3 RR 2d 1622. The requirements of Rule 1.65 are not met by filing information in the Form 323 Ownership Reports required by the Commission. Cleveland Broadcasting, Inc., FCC 66R–76, 2 FCC 2d, released March 2, 1966. An issue will therefore be added to determine the facts concerning this reporting failure and the effect thereof on Second Thursday's qualifications.

Accordingly, it is ordered, This 25th day of March 1966, that the petition to enlarge issues, filed January 19, 1966, by Central Broadcasting Corp. is denied;

It is furthered ordered, On the Board's own motion, that the issues in this proceeding are enlarged by the addition of the following issues:

To determine whether Second Thursday Corp. failed to perform the responsibilities of continuing accuracy and completeness of information furnished in a pending application as required by § 1.65 of the Commission's rules by its failure to amend the Second Thursday broadcast application within 30 days to reflect changes in ownership after the addition of three principals, a revision in the corporate makeup and increased equipment costs;

To determine whether the facts adduced pursuant to the foregoing issues bear upon the comparative qualifications of Second Thursday Corp.

Released: March 25, 1966.

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

[F.R. Doc. 66–3399; Filed, Mar. 29, 1966; 8:50 a.m.]

[Supp. 4]

CANADIAN AND U.S. VHF TELEVISION BROADCAST STATIONS

1961 Working Arrangement for Allocation

MARCH 25, 1966.

Amendment of Table A of the 1961 working arrangement for allocation of VHF television broadcast stations under the Canadian-U.S.A. Television Agreement of 1952.

Pursuant to an exchange of correspondence between the Department of Transport of Canada and the Federal Communications Commission, Table A, Annex 1 of the Television Working Arrangement under the Canadian-U.S.A. Television Agreement has been amended as follows:

City	Channel No.	
	Delete	Add
Penticton, British Columbia.	----------	10 (limitation to protect Channel 10 New Westminster, B.C., and CBYBT Channel 10, Cranbrook, B.C.)
Chapleau, Ontario	----------	7+(limitation to protect CBFOT–2, Hearst, Ontario)
Sarnia, Ontario	40	38.[1]
Winsdor, Ontario	38	26.[1]
Montreal, Quebec	15+	14.[1]

[1] Channel offset designations to be supplied at later date.

Further amendments to Table A will be issued as public notices in the form of numbered supplements.

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

[F.R. Doc. 66–3400; Filed, Mar. 29, 1966; 8:50 a.m.]

[Docket Nos. 16454, 16455; FCC 66M–408]

RICHARD O'CONNOR AND KOPS COMMUNICATIONS, INC.

Order Continuing Hearing

In re applications of Richard O'Connor, Albany, N.Y., Docket No. 16454, File No. BPH–4329; KOPS Communications, Inc., Albany, N.Y., Docket No. 16455, File No. BPH–4625.

Pursuant to agreement arrived at during the prehearing conference in the above-styled proceeding held on this date: *It is ordered,* This 18th day of March 1966, that the hearing scheduled to be held on April 21, 1966, be and the same is hereby continued without date, pending action on pleadings and agreements to be filed on or before March 28, 1966.

Released: March 21, 1966.

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

[F.R. Doc. 66–3401; Filed, Mar. 29, 1966; 8:50 a.m.]

[Docket Nos. 16060, 16061; FCC 66M–425]

CLAY COUNTY BROADCASTING CO. AND WILDERNESS ROAD BROADCASTING CO.

Order Continuing Hearing

In re applications of John E. White, Calvin C. Smith, Jack C. Hall and Cloyd Smith, doing business as Clay County Broadcasting Co., Manchester, Ky., Docket No. 16060, File No. BPH–4596; The Wilderness Road Broadcasting Co., Manchester, Ky., Docket No. 16061, File No. BPH–4655; for construction permits.

[2] While the Board realizes that any insufficiency in finances may be attacked under the standard financial issue, the issue raised here goes to the failure to report increased costs under § 1.65.

[3] Review Board Members Nelson and Pincock voting against adoption of the issue.

This formalizes an oral ruling made on the record on March 24, 1966. Hearing now scheduled for April 18, 1966, is continued to May 23, 1966.

So ordered, This 24th day of March 1966.

Released: March 24, 1966.

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

[F.R. Doc. 66-3402; Filed, Mar. 29, 1966; 8:50 a.m.]

FEDERAL MARITIME COMMISSION

[Docket No. 66-15; Agreement 9448]

FIVE CONFERENCES IN NORTH ATLANTIC OUTBOUND/EUROPEAN TRADE

Order of Investigation and Hearing Regarding Joint Agreement

The Commission has before it for approval pursuant to section 15 of the Shipping Act, 1916, an agreement which has been assigned Federal Maritime Commission Agreement Number 9448, between the member lines of the following Conferences in the outbound trades from U.S. North Atlantic ports to Europe:

North Atlantic Baltic Freight Conference (7670).
North Atlantic Continental Freight Conference (9214).
North Atlantic French Atlantic Freight Conference (7770).
North Atlantic Mediterranean Freight Conference (7980).
North Atlantic United Kingdom Freight Conference (7100).

Agreement 9448 appears incomplete as to its terms and conditions, and the object and the purposes of the agreement and the reasons therefor have not been clarified.

To discharge its responsibility under section 15 of the said Act, and to insure (1) that the parties thereto are complying with the requirements of the Act; (2) that the parties are operating in a manner consistent with the terms and conditions of their approved Conference agreements; (3) that the said Agreement No. 9448 constitutes the full and complete understanding of the carriers, and (4) that no unfiled agreements between the carriers involved are being unlawfully implemented, the Commission finds that a full investigation and hearing is required to determine whether the agreement should be approved, disapproved or modified in accordance with the provisions of said section 15.

Therefore, it is ordered, That pursuant to sections 15 and 22 of the Shipping Act, 1916, as amended, a hearing be instituted to determine whether (1) Agreement 9448 is true and complete, (2) there are any unfiled agreements between the carriers which are being unlawfully implemented, and (3) the said agreement should be approved, disapproved or modified pursuant to the provisions of section 15.

It is further ordered, That the Conferences and the member lines thereof, listed in the Appendix set forth below, be made respondents in this proceeding.

It is further ordered, That this matter be assigned for hearing and decision by an examiner of the Commission's Office of Hearing Examiners at a date and place to be hereafter determined and announced by the designated examiner.

It is further ordered, That any persons, other than respondents, having any interest in this matter and desiring to participate in this proceeding, shall file a petition for leave to intervene with the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before April 11, 1966, with copy to respondents.

It is further ordered, That this order and notice of hearing be published in the FEDERAL REGISTER, that a copy of such order be served upon respondents, and that all future notices, orders, and decisions issued in this proceeding, including notice of time and place of prehearing conference, if any, be mailed directly to each party of record.

By the Commission.

[SEAL] THOMAS LISI,
Secretary.

APPENDIX

American Export Isbrandtsen Lines, Inc., 26 Broadway, New York, N.Y., 10004.
Anchor Line, Ltd., The Cunard Steam-Ship Co., Ltd., general agents, 25 Broadway, New York, N.Y., 10004.
Belgian Line, Belgian Line, Inc., general agents, 67 Broad Street, New York, N.Y., 10004.
Black Diamond Steamship Corp., 2 Broadway, New York, N.Y., 10004.
Blue Sea Line, Funch, Edye & Co., Inc., general agents, 25 Broadway, New York, N.Y., 10004.
Bristol City Line of Steamships, Ltd., Charles Hill & Sons, Inc., general agents, 1 Broadway, New York, N.Y., 10004.
Central Gulf Steamship Corp., 1 Whitehall Street, New York, N.Y., 10004.
Concordia Line, Boise-Griffin Steamship Co., Inc., general agents, 90 Broad Street, New York, N.Y., 10004.
Constellation Line, Van Nievelt, Goudriaan & Co.'s Stoomvaart Maatschappij, N.V., Constellation Navigation Inc., general agents, 85 Broad Street, New York, N.Y., 10004.
Cosmopolitan Line, A/S J. Ludwig Mowinckels Rederi, Cosmopolitan Shipping Co., Inc., general agents, 42 Broadway, New York., N.Y., 10004.
Cunard Line, The Cunard Steam-Ship Co., Ltd., 25 Broadway, New York, N.Y., 10004.
Finnlines, Merivienti Oy, Boise-Griffin Steamship Co., Inc., general agents, 90 Broad Street, New York, N.Y., 10004.
French Line, Compagnie Generale Transatlantique, 17 Battery Place, New York, N.Y., 10004.
Fresco Line, F. W. Hartmann & Co., Inc., general agents, 120 Wall Street, New York, N.Y., 10005.
Furness Warren Lines, Johnson Warren Lines, Ltd., Furness, Withy & Co., Ltd., general agents, 34 Whitehall Street, New York, N.Y., 10004.
Gdynia America Line, (Polish Ocean Lines), Dalton Steamship Corp., general agents, 42 Broadway, New York, N.Y., 10004.
Hamburg-American Line, United States Navigation Co., Inc., general agents, 17 Battery Place, New York, N.Y., 10004.
Hansa Line, D.D.G. Hansa, F. W. Hartmann & Co., Inc., general agents, 120 Wall Street, New York, N.Y., 10005.
Head Line & Lord Line, Ulster Steamship Co., Ltd., Ellerman's Wilson Line, N.Y., Inc., general agents, 26 Beaver Street, New York, N.Y., 10004.
Hellenic Lines, Ltd., 39 Broadway, New York, N.Y., 10006.
Hoegh Lines, Kerr Steamship Co., Inc., general agents, 51 Broad Street, New York, N.Y., 10004.
Holland-America Line, Pier 40, North River, New York, N.Y., 10004.
Irish Shipping, Ltd., Hansen & Tidemann, Inc., general agents, 67 Broad Street, New York, N.Y., 10004.
Isthmian Lines, Inc., States Marine-Isthmian Agency, Inc., general agents, 90 Broad Street, New York, N.Y., 10004.
Italian Line, "Italia"—Societa Per Azioni Di Navigazione, 1 Whitehall Street, New York, N.Y., 10004.
Lamport & Holt Line, Ltd., Booth American Shipping Corp., general agents, 17 Battery Place, New York, N.Y., 10004.
Manchester Liners, Ltd., Furness, Withy & Co., Ltd., general agents, 34 Whitehall Street, New York, N.Y., 10004.
National Hellenic-American Line, S.A., Cosmopolitan Shipping Co., Inc., general agents, 42 Broadway, New York, N.Y., 10004.
Moore-McCormack Lines, Inc., 2 Broadway, New York, N.Y., 10004.
Norwegian America Line, Den Norske Amerikalinje A/S, 24 State Street, New York, N.Y., 10004.
North German Lloyd, United States Navigation Co., Inc., general agents, 17 Battery Place, New York, N.Y., 10004.
Orient Mid-East Lines, Eagle Ocean Transport, Inc., general agents, 29 Broadway, New York, N.Y., 10006.
Prudential Lines, Inc., 1 Whitehall Street, New York, N.Y., 10004.
Scandinavian-American Line, Det Forenede Dampskibs-Selskab A/S, Funch, Edye & Co., Inc., general agents, 25 Broadway, New York, N.Y., 10004.
States Marine Lines, States Marine-Isthmian Agency, Inc., general agents, 90 Broad Street, New York, N.Y., 10004.
Swedish American Line, Aktiebolaget Svenska Amerika Linien, Furness, Withy & Co., Ltd., general agents, 34 Whitehall Street, New York, N.Y., 10004.
Swedish Transatlantic Line, Rederiaktiebolaget Transatlantic, Furness, Withy & Co., Ltd., general agents, 34 Whitehall Street, New York, N.Y., 10004.
Thorden Lines A/B, Boise-Griffin Steamship Co., Inc., general agents, 90 Broad Street, New York, N.Y., 10004.
Torm Lines, Dampskibsselskabet Torm A/S, Peralta Shipping Corp., general agents, 85 Broad Street, New York, N.Y., 10004.
United States Lines Co., 1 Broadway, New York, N.Y., 10004.
Wilhelmsen Line, Barber Steamship Lines, Inc., general agents, 17 Battery Place, New York, N.Y., 10004.
Zim Israel Navigation Co., Ltd., American-Israeli Shipping Co., Inc., general agents, 42 Broadway, New York, N.Y., 10004.

CONFERENCES

Mr. Richard J. Gage, chairman, North Atlantic United Kingdom Freight Conference, 17 Battery Place, New York, N.Y., 10004.
Mr. David M. MacNeil, chairman, North Atlantic Mediterranean Freight Conference, 17 Battery Place, New York, N.Y., 10004.
Mr. Vincent G. Barnett, chairman, North Atlantic Baltic Freight Conference, North Atlantic French Atlantic Freight Conference, North Atlantic Continental Freight Conference, 17 Battery Place, New York, N.Y., 10004.

[F.R. Doc. 66-3380; Filed, Mar. 29, 1966; 8:48 a.m.]

FEDERAL POWER COMMISSION

[Docket Nos. G–7160 etc.]

GULF OIL CORP. ET AL.

Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

MARCH 21, 1966.

Gulf Oil Corp. (Operator), et al. and other Applicants listed herein, Docket Nos. G–7160, et al.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service heretofore authorized as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before April 13, 1966.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a protest or petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given: *Provided, however,* That pursuant to § 2.56, Part 2, Statement of General Policy and Interpretations, Chapter I of Title 18 of the Code of Federal Regulations, as amended, all permanent certificates of public convenience and necessity granting applications, filed after April 15, 1965, without further notice, will contain a condition precluding any filing of an increased rate at a price in excess of that designated for the particular area of production for the period prescribed therein unless at the time of filing such certificate application, or within the time fixed herein for the filing of protests or petitions to intervene the Applicant indicates in writing that it is unwilling to accept such a condition. In the event Applicant is unwilling to accept such condition the application will be set for formal hearing.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

JOSEPH H. GUTRIDE,
Secretary.

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
G–7160 2–1–66 [2]	Gulf Oil Corp. (Operator), et al., Post Office Box 1589, Tulsa, Okla., 74102.	Northern Natural Gas Co., Jalmat Gas Pool, Lea County, N. Mex.	[3] 11.7212	14.65
G–16218 3–16–66 [2]	----do----	Transwestern Pipeline Co., J. B. Logan Unit, Laverne Field, Harper County, Okla.	17.0	14.65
CI60–467 E 2–21–66 [4]	John L. Harlan, trustee (Operator), et al. (formerly Graridge Corp. (Operator), et al.) Post Office Box 355, Monahans, Tex.	Tennessee Gas Transmission Co., Southeast Tomball Field, Harris County, Tex.	[5] 15.5	14.65
CI62–604 C&D 2–24–66	Allerton Miller, 2501 Grant Bldg., Pittsburgh, Pa., 15219.	Equitable Gas Co., Meade and Buckhannan Districts, Upshur County, W. Va.	25.0	15.325
CI63–936 C 2–25–66	J. A. Chapman, Post Office Box 911, Tulsa, Okla.	Michigan Wisconsin Pipe Line Co., Woodward Area, Major County, Okla.	[6] 19.5	14.65
CI63–1139 C 3–7–66	Harper Oil Co. (Operator), et al., 300 Hightower Bldg., Oklahoma City, Okla., 73102.	Arkansas Louisiana Gas Co., North Drummond Area, Garfield County, Okla.	15.0	14.65
CI65–1152 (CI62–171) [7] C 12–20–65 [8]	Frank H. Walsh, Post Office Box 30, Sterling, Colo.	Kansas-Nebraska Natural Gas Co., Inc., Elm Grove Field, Logan County, Colo.	[9] 3.6646	15.025
CI65–1312 E 3–14–66	Pan American Petroleum Corp. (successor to Sun Oil Co.), Post Office Box 591, Tulsa, Okla., 74102.	Arkansas Louisiana Gas Co., Chenière Field, Ouachita Parish, La.	[10] 18.33	15.025
CI66–829 A 3–10–66	Trigg Drilling Co., c/o James W. George, Esquire, George & Kenan, 1366 First National Bldg., Oklahoma City, Okla.	Natural Gas Pipeline Co. of America, acreage in Dewey County, Okla.	[11] 15.0	14.65
CI66–832 A 3–10–66	Sinclair Oil & Gas Co., Post Office Box 521, Tulsa, Okla., 74102.	Natural Gas Pipeline Co. o America, Mobeetie Field, Wheeler County, Tex.	17.0	14.65
CI66–834 A 3–11–66	J. M. Huber Corp., 2401 East 2d Ave., Denver, Colo., 80206.	Panhandle Eastern Pipe Line Co., Greenburg Field, Kiowa County, Kans.	15.0	14.65
CI66–837 A 3–10–66	Coastal States Gas Producing Co., et al., Post Office Box 521, Corpus Christi, Tex., 78403.	Banquete Gas Co., a division of Crestmont Oil & Gas Co., East Taft Area, San Patricio County, Tex.	10.0	14.65
CI66–838 A 3–9–66	O. J. Lilly, 1806 Pompton Dr., Austin, Tex., 78758.	El Paso Natural Gas Co., Ballard Pictured Cliffs Field, Rio Arriba County, N. Mex.	10.0	15.025
CI66–839 A 3–9–66	----do----	El Paso Natural Gas Co., Basin Dakota Field, San Juan County, N. Mex.	13.0	15.025
CI66–840 A 3–14–66	Union Drilling, Inc., Post Office Box 281, Washington, Pa.	Equitable Gas Co., Meade District, Upshur County, W. Va.	25.0	15.325
CI66–841 A 3–11–66	Louise Y. Locke, Post Office Box 829, Durango, Colo., 81300.	El Paso Natural Gas Co., San Juan Basin, West Kutz Fruitland Field, San Juan County, N. Mex.	10.0	15.025
CI66–842 A 3–14–66	Dalco Oil Co., 1210 Mercantile Bank Bldg., Dallas, Tex., 75201.	Texas Gas Transmission Corp., Chenière Field, Jackson and Ouachita Parishes, La.	18.25	15.025
CI66–843 A 3–14–66	Carroll G. Jones, et al., c/o Kenneth M. Britt, attorney, 1275 Petroleum Bldg., Jackson, Miss.	United Gas Pipe Line Co., Mount Olive Field, Smith and Covington Counties, Miss.	13.0	15.025
CI66–844 (CI64–1425) F 3–14–66	Pan American Petroleum Corp. (successor to Sun Oil Co.), Post Office Box 591, Tulsa, Okla., 74102.	Arkansas Louisiana Gas Co., Chenière Field, Ouachita Parish, La.	[12] 18.33	15.025
CI66–845 A 3–14–66	Neal Rudder, et al., Box 126, Belpre, Ohio, 45714.	United Fuel Gas Co., Walton District, Roane County, W. Va.	25.0	15.325
CI66–846 B 3–14–66	Humble Oil & Refining Co., Post Office Box 2180, Houston, Tex., 77001.	Phillips Petroleum Co., Weiner Field, Winkler County, Tex.	Depleted	----
CI66–847 (G–14201) F 3–14–66	Frank H. Walsh (successor to Pan American Petroleum Corp.), Post Office Box 30, Sterling, Colo.	Kansas-Nebraska Natural Gas Co., Inc., Elm Grove Field, Logan County, Colo.	4.0	16.4
CI66–848 A 3–16–66	Webster Myers, et al., 1614 Seventh St., Huntington, W. Va.	Consolidated Gas Supply Corp., Glenville District, Gilmer County, W. Va.	25.0	15.325
CI66–849 B 3–16–66	George P. Black, 29 Willowbrook Dr., Parkersburg W. Va.	Consolidated Gas Supply Corp., Union District, Ritchie County, W. Va.	Production decline	
CI66–850 A 3–16–66	F. M. Chisler, et al., Route No. 2, Fairview, W. Va.	Consolidated Gas Supply Corp., Washington District, Calhoun County, W. Va.	25.0	15.325
CI66–851 A 3–16–66	W. G. Sampson, et al., Chloe, W. Va.	----do----	25.0	15.325
CI66–852 B 3–16–66	Skelly Oil Co., Post Office Box 1650, Tulsa, Okla., 74102.	Cities Service Gas Co., Driftwood Field, Barber County, Kans.	Depleted	----
CI66–853 A 3–16–66	Twin Gas Co., c/o James W. Williams, attorney, Box 1587, Ardmore, Okla., 73401.	Panhandle Eastern Pipe Line Co., acreage in Alfalfa County, Okla.	[13] 15.0	14.65

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein, nor should it be so construed.

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
CI66-854..... B 3-16-66	H. C. Heldenfels, trustee, c/o Tarpon Management Co., Vaughn Plaza, Corpus Christi, Tex.	Banquete Gas Co., a division of Crestmont Oil & Gas Co., Taft Area, San Patricio County, Tex.	(14)	.....
CI66-855..... A 3-16-66	H. C. Heldenfels, trustee.....	Banquete Gas Co., a division of Crestmont Oil & Gas Co., Taft-East Field, San Patricio County, Tex.	12.0	14.65
CI66-856..... A 3-16-66	Oklahoma Natural Gas Co., Post Office Box 871, Tulsa, Okla., 74102.	Arkansas Louisiana Gas Co., South Quinton Field, Pittsburg County, Okla.	15.0	14.65

[1] Amendment to certificate filed to add interest of nonsignatory coowner, Mrs. Blanche McCallister.
[2] Rate in effect subject to refund in Docket No. RI64-322.
[3] Amendment to certificate filed to add interest of coowners.
[4] Amendment to certificate filed to reflect John L. Harlan, Trustee as operator and certificate holder in lieu of Graridge Corp. No change in ownership is involved.
[5] Rate in effect subject to refund in Docket No. RI64-426.
[6] Subject to upward B.t.u. adjustment.
[7] No permanent certificate issued; sale being rendered under temporary authorization.
[8] Adds acreage acquired from D-J Oil, Inc. D-J Oil, Inc., had previously purchased all properties covered by Exeter Drilling Co., agent (Operator), et al. (FPC GRS No. 1), Docket No. CI62-171.
[9] Converted from contract rate of 4.08 cents per Mcf at 16.4 p.s.i.a.
[10] Includes 1.33 cents per Mcf tax reimbursement.
[11] Contract rate is 17.0 cents per Mcf; however, Applicant states its willingness to accept certificate at 15.0 cents per Mcf.
[12] Includes 1.33 cents per Mcf tax reimbursement.
[13] Subject to upward and downward B.t.u. adjustment.
[14] Contract covered the sale of oil-well gas and as of April 1964, no oil wells were located on subject property.

[F.R. Doc. 66-3280; Filed, Mar. 29, 1966; 8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-4364]

GULF POWER CO.

Notice of Issuance of Principal Amount of First Mortgage Bonds for Sinking Fund Purposes

MARCH 24, 1966.

Notice is hereby given that Gulf Power Co. ("Gulf"), 75 North Pace Boulevard, Pensacola, Fla., 32501, a public-utility subsidiary company of the Southern Co., a registered holding company, has filed a declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a) and 7 thereof as applicable to the proposed transaction. All interested persons are referred to said amended declaration, on file in the office of the Commission, for a statement of the proposed transaction which is summarized below.

Gulf proposes, on or prior to June 1, 1966, to issue $620,000 principal amount of its first mortgage bonds, 3¼ percent series due 1984, under the provisions of its indenture dated as of September 1, 1941, between Gulf and the Chase Manhattan Bank (National Association) and the Citizens & Peoples National Bank of Pensacola, as trustees, as amended and supplemented, and to surrender such bonds to the trustees in accordance with the sinking fund provisions. The bonds are to be identical with those authorized by the Commission on June 14, 1954 (Holding Company Act Release No. 12543), and are to be issued on the basis of property additions, thus making available for construction purposes cash which would otherwise be required to satisfy sinking fund provisions or to purchase bonds for such purpose.

It is stated that the issuance of the bonds has been expressly authorized by the Florida Public Service Commission and that no other State or Federal commission, other than this Commission, has jurisdiction over the proposed transaction. The fees and expenses to be paid in connection with the proposed transaction are estimated at $1,000.

Notice is further given that any interested person may, not later than April 11, 1966, 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 amended declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C., 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed contemporaneously with the request. At any time after said date the declaration, as amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 66-3359; Filed, Mar. 29, 1966; 8:47 a.m.]

[File No. 70-4365]

MISSISSIPPI POWER CO.

Notice of Issuance of Principal Amount of First Mortgage Bonds for Sinking Fund Purposes

MARCH 24, 1966.

Notice is hereby given that Mississippi Power Co. ("Mississippi"), 2500 14th Street, Gulfport, Miss., 39501, a Maine corporation and a public-utility subsidiary of the Southern Co., a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6 and 7 of the Act as applicable to the proposed transactions. All interested persons are referred to the declaration, on file at the office of the Commission, for a statement of the transaction therein proposed which is summarized below.

Mississippi proposes, on or prior to June 1, 1966, to issue $750,000 principal amount of its first mortgage bonds, 4⅝ percent series due 1987, under the provisions of its indenture dated as of September 1, 1941, between Mississippi and Morgan Guaranty Trust Co. of New York, as trustee, as amended and supplemented, and to surrender such bonds to the trustee for cancellation in accordance with the sinking fund provisions. The bonds are to be identical with those authorized by the Commission on April 3, 1957 (Holding Company Act Release No. 13437), and are to be issued on the basis of property additions, thus making available for construction purposes cash which would otherwise be required to satisfy sinking fund provisions or to purchase bonds for such purpose.

The declaration states that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed issuance of bonds. The fees and expenses to be incurred in connection with the proposed transaction are estimated at $1,000.

Notice is further given that any interested person may, not later than April 11, 1966, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C., 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed contemporaneously with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption

from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 66-3360; Filed, Mar. 29, 1966; 8:47 a.m.]

[File No. 70-4363]

POTOMAC EDISON CO. AND ALLEGHENY POWER SYSTEM, INC.

Notice of Proposed Issue and Sale of Principal Amount of First Mortgage Bonds at Competitive Bidding and of Common Stock to Holding Company

MARCH 24, 1966.

Notice is hereby given that Allegheny Power System, Inc. ("Allegheny"), a registered holding company, and the Potomac Edison Co. ("Potomac"), 320 Park Avenue, New York, N.Y., 10022, a registered holding company and an electric utility subsidiary company of Allegheny, have filed a joint application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(b), 7, 9(a), 10, and 12 of the Act and Rules 43, 44 and 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the joint application, on file at the office of the Commission, for a statement of the transactions therein proposed which are summarized below.

Potomac proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, $18,000,000 principal amount of its first mortgage and collateral trust bonds, — percent series due 1996. The interest rate of the new bonds (which will be a multiple of ⅛ of 1 percent) and the price, exclusive of accrued interest, to be paid to Potomac (which will be not less than 100 percent nor more than 102¾ percent of the principal amount thereof) will be determined by the competitive bidding. The new bonds will be issued under an indenture dated as of October 1, 1944, between Potomac and Chemical Bank New York Trust Co., as trustee, as supplemented and as to be supplemented by a supplemental indenture to be dated as of May 1, 1966.

At the time of issuance of the new bonds, Potomac proposes to issue and sell, and Allegheny proposes to acquire, 250,000 shares of Potomac's common stock, no par value, for $5,000,000 in cash. Allegheny owns all of the 1,075,000 presently outstanding shares of Potomac's common stock. Upon acquisition of the stock Allegheny proposes to pledge it with Chemical Bank New York Trust Co., the trustee under the trust indenture dated as of September 1, 1949, securing the 3½ percent sinking fund collateral trust bonds of Allegheny in accordance with the requirements of said indenture.

The net proceeds from the sale of the Potomac bonds and common stock will be used for construction expenditures of Potomac and its subsidiary companies, estimated at about $70,000,000 for 1966–68, and to repay Potomac's borrowings from Allegheny totaling $5,000,000.

The issue and sale of the new bonds and the additional common stock by Potomac require prior authorization of the Maryland Public Service Commission. The joint application states that no other State or Federal regulatory authority, other than this Commission, has jurisdicton over the proposed transactions.

The fees and expenses to be incurred in connection with the issue and sale of the bonds and stock are estimated at $64,000, including counsel fees of $11,150, auditors' fees of $3,000, and miscellaneous expenses of $2,706. Fees of counsel for the underwriters of the Potomac bonds in the amount of $8,000 will be paid by the successful bidders.

Notice is further given that any interested person may, not later than April 11, 1966, 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 the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C., 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants 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, as filed or as it may be amended, may be granted 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. 66-3361; Filed, Mar. 29, 1966; 8:47 a.m.]

DEPARTMENT OF LABOR

Wage and Hour Division

CERTIFICATES AUTHORIZING EMPLOYMENT OF LEARNERS AT SPECIAL MINIMUM RATES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.), and Administrative Order No. 579 (28 F.R. 11524) the firms listed in this notice have been issued special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the act. The effective and expiration dates, occupations, wage rates, number or proportion of learners and learning periods, for certificates issued under general learner regulations (29 CFR 522.1 to 522.9), and the principal product manufactured by the employer are as indicated below. Conditions provided in certificates issued under the supplemental industry regulations cited in the captions below are as established in those regulations.

Apparel industry learner regulations (29 CFR 522.1 to 522.9, as amended, and 29 CFR 522.20 to 522.25, as amended).

The following learner certificates were issued authorizing the employment of 10 percent of the total number of factory production workers for normal labor turnover purposes. The effective and expiration dates are indicated.

Big Yank Dixie Factory, 100 Ferguson Street, Hattiesburg, Miss.; effective 3-21-66 to 3-20-67 (men's and boys' pants, men's work shirts).

Blue Bell, Inc., 301 North Main Street, Abingdon, Ill.; effective 4-1-66 to 3-31-67 (men's trousers).

Blue Bell, Inc., Prentiss County, Baldwin, Miss.; effective 4-1-66 to 3-31-67 (ladies' and girls' blouses).

Blue Bell, Inc., Ada, Okla.; effective 3-25-66 to 3-24-67 (men's, boys', ladies' and girls' dungarees).

Blue Bell, Inc., Coalgate, Okla.; effective 3-25-66 to 3-24-67 (women's and girls' dungarees).

Carbondale Apparel Co., 5 John Street, Carbondale, Pa.; effective 3-27-66 to 3-26-67 (children's dresses).

Carolina Sportswear Co., Warrenton, N.C.; effective 3-16-66 to 3-15-67 (men's and boys' sportswear).

Charleston Manufacturing Co., Inc., Charleston Heights, S.C.; effective 3-18-66 to 3-17-67 (ladies' dresses).

Cookeville Shirt Co., 106 North Walnut Street, Cookeville, Tenn.; effective 3-24-66 to 3-23-67 (men's dress shirts).

Custom Sportswear, Inc., 10th & Spring Streets, Reading, Pa.; effective 3-18-66 to 3-17-67 (men's, women's and children's polo shirts).

Danville Manufacturing Co., Inc., Danville, Pa., Riverside, Pa.; effective 3-14-66 to 3-13-67 (ladies' sleepwear).

E & W of LaFayette, Inc., LaFayette, Ga.; effective 3-31-66 to 3-30-67 (men's sport shirts).

Globe Manufacturing, Adams Street, Vidalia, Ga., effective 3-21-66 to 3-20-67 (boys' pants).

Indiana Sportswear Co., Post Office Box 252, Indiana, Pa.; effective 3-30-66 to 3-29-67 (men's and boys' outerwear jackets).

Manchester Industries, Manchester, Tenn.; effective 3-25-66 to 3-24-67 (men's and boys' sport shirts).

Mount Pleasant Garment Corp., First Avenue, Mount Pleasant, Tenn.; effective 3-14-66 to 3-13-67 (boys' sport shirts).

Oberman Manufacturing Co., Fayetteville, Ark.; effective 3-14-66 to 3-13-67 (men's work pants and outerwear jackets).

Pass Christian Industries, Inc., 100 West Beach, Pass Christian, Miss.; effective 3-17-66 to 3-16-67 (men's dress and sport shirts).

J. H. Rutter Rex Manufacturing Co., Columbia, Miss.; effective 3-30-66 to 3-29-67 (men's and boys' work shirts).

Salant and Salant, Inc., Troy Road, Obion, Tenn.; effective 3-28-66 to 3-27-67 (men's and boys' sport shirts).

Sancar Corp., 28 West Rock Street, Harrisonburg, Va.; effective 3-30-66 to 3-29-67 (ladies' woven underwear).

Shane Manufacturing Co., Inc., Men's Work Clothing Division, 1817 West Michigan Street, Evansville, Ind.; effective 4-1-66 to 3-31-67 (men's work clothing).

Southland Manufacturing Co., Inc., Benson, N.C.; effective 3-31-66 to 3-30-67 (men's and boys' sport shirts).

Sunset Manufacturing Co., Inc., 24 Moser Road, Pottstown, Pa.; effective 3-26-66 to 3-25-67 (ladies' dresses).

Tower City Dress Co., Inc., 800 State Street, Utica, N.Y.; effective 3-16-66 to 3-15-67 (women's and misses' dresses).

Weaver Pants Co., Inc., 503 Polk Street, Corinth, Miss.; effective 3-18-66 to 3-17-67 (men's slacks).

The following learner certificates were issued for normal labor turnover purposes. The effective and expiration dates and the number of learners authorized are indicated.

College Casuals Co., Sheppton, Pa.; effective 3-25-66 to 3-24-67; 10 learners (ladies' shorts and slacks).

Duquesne Manufacturing Co., 852 Constitution Boulevard, New Kensington, Pa.; effective 4-1-66 to 3-31-67; 10 learners (women's dresses).

M & H Dress Co., 410 Washington Street, Jermyn, Pa.; effective 3-16-66 to 3-15-67; 5 learners (ladies' dresses).

Sportee Corp. of North Carolina, Post Office Box 338, Clarkton, N.C.; effective 3-19-66 to 3-18-67; 10 learners (ladies' blouses, slacks and capris).

The following learner certificates were issued for plant expansion purposes. The effective and expiration dates and the number of learners authorized are indicated.

Apco Manufacturing Co., 1501 West 7th Avenue, Brodhead, Wis.; effective 3-15-66 to 9-14-66; 15 learners (infants' and children's polo shirts).

Garan, Inc., Adamsville, Tenn.; effective 3-18-66 to 9-17-66; 50 learners (men's and boys' sport shirts).

Henry I. Siegel Co., Inc., Tiptonville, Tenn.; effective 3-18-66 to 9-17-66; 40 learners. Learners may not be employed at special minimum wages in the manufacture of sport coats of suit type construction and pants which are matched with coats (men's and boys' pants and outerwear jackets).

Glove Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended, and 29 CFR 522.60 to 522.65, as amended).

Haynesville Manufacturing Co., Inc., Haynesville, La.; effective 3-14-66 to 9-13-66; 20 learners (work gloves).

Each learner certificate has been issued upon the representations of the employer which, among other things, were that employment of learners at special minimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within 15 days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 522.9. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in 29 CFR Part 528.

Signed at Washington, D.C., this 25th day of March 1966.

ROBERT G. GRONEWALD,
Authorized Representative of the Administrator.

[F.R. Doc. 66-3358; Filed, Mar. 29, 1966; 8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATION FOR RELIEF

MARCH 25, 1966.

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. 40371—*Sulphuric acid to Tyner, Tenn.* Filed by O. W. South, Jr., agent (No. A4869), for interested rail carriers. Rates on sulphuric acid, in tankcar loads, subject to minimum of five cars per shipment, from Baton Rouge and North Baton Rouge, La., to Tyner, Tenn.

Grounds for relief—Market competition.

Tariff—Supplement 145 to Southern Freight Association, agent, tariff ICC S-162.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 66-3382; Filed, Mar. 29, 1966; 8:48 a.m.]

[Notice 154]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MARCH 25, 1966.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules in Ex Parte No. MC 67 (49 CFR Part 240), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protest must certify that such service has been made. The protest must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined, at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 11220 (Sub-No. 105 TA), filed March 23, 1966. Applicant: GORDONS TRANSPORTS, INC., 185 West McLemore Avenue, Memphis, Tenn., 38102. Applicant's representative: W. F. Goodwin (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, and except livestock, dangerous explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite of Magna American Corp. at Raymond, Miss., as an off-route point in connection with applicant's certificated authority in docket MC 11220 (Sub 4), for 180 days. Supporting shipper: Magna American Corp., Interstate Highway 75, Evendale, Cincinnati, Ohio, 45215. (Mr. Carsten R. Wegelin, general traffic manager.) Send protests to: W. W. Garland, District Supervisor, Interstate Commerce Commission, Bureau of Operations and Compliance, 390 Federal Office Building, 167 North Main, Memphis, Tenn., 38103.

No. MC 104004 (Sub-No. 165 TA), filed March 23, 1966. Applicant: ASSOCIATED TRANSPORT, INC., 380 Madison Avenue, New York, N.Y., 10017. Applicant's representative: E. E. Meisenbach (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plant equipment and supplies including used office equipment and supplies* (except uncrated furniture), *used machines and machinery parts, factory stock, finished materials, factory stock raw materials and shop tools*, in mixed shipments, from Waterbury, Conn., to Montross, Va., and the plantsites of the Scovill Manufacturing Co. at or near Montross, Va., for 180 days. Supporting shipper: Scovill Manufacturing Co., Waterbury, Conn., 06720. Send protests to: Stephen P. Tomany, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 346 Broadway, N.Y., 10013.

No. MC 107064 (Sub-No. 45 TA), filed March 23, 1966. Applicant: STEERE TANK LINES, INC., Post Office Box 2998, 2808 Fairmount Street, Dallas 21, Tex. Applicant's representative: H. L. Rice, Jr. (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer materials*, in bags, from Lehman, Tex., to points in Oklahoma, Kansas, Nebraska, Iowa, Arizona, Arkansas, Colorado, Mississippi, Missouri, Idaho, Louisiana, New Mexico, Nevada, North Dakota, South Dakota, Utah, and Wyoming, for 150 days. Supporting shipper: National Sulphur Co., 1300 V & J Tower, Midland, Tex., 79704. Send protests to: E. K. Willis, Jr., District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 513 Thomas Building, 1314 Wood Street, Dallas, Tex., 75202.

No. MC 112520 (Sub-No. 142 TA), filed March 23, 1966. Applicant: McKENZIE TANK LINES, INC., New Quincy Road,

Post Office Box 1200, Tallahassee, Fla., 32301. Applicant's representative: Sol H. Proctor, 1730 American Heritage Life Building, Jacksonville, Fla., 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, (A) liquid, methanol, anhydrous ammonia, aqua ammonia, nitrogen fertilizer solution, nitric acid, methyl methacrylate monomer (inhibited and uninhibited), anhydrous monomethylamines, anhydrous dimethylamines, anhydrous trimethylamines, diethylamines, aqueous monomethylamines, aqueous dimethylamines, aqueous trimethylamines, monoethylamines, monoisopropylamines, acetic acid, butines (LPG), methacrylic acid; (B) dry, ammonium nitrate, ammoniated superphosphate (N-P), synthetic plastic resin, hiba (a hydroxyisobutyric acid); from plantsite of Escambia Chemical Corp. at Pace, Fla., to points in Alabama, Arkansas, Colorado, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee,, Texas, Vermont, Virginia, West Virginia, Wisconsin, District of Columbia (except (1) points in Harris County, Tex., (2) liquid chemicals to points in Virginia and West Virginia, (3) methyl methacrylate monomer to points in Maryland and New Jersey) for 180 days. Supporting shipper: Escambia Chemical Corp., Post Office Box 467, Pensacola, Fla., 32502. Send protests to: J. B. Sutton, Safety Inspector, Bureau of Operations and Compliance, Interstate Commerce Commission, Post Office Box 4969, Jacksonville, Fla., 32201.

No. MC 115311 (Sub-No. 54 TA), filed March 23, 1966. Applicant: J & M TRANSPORTATION CO., INC., Post Office Box 589, Americus, Ga., 31709. Applicant's representative: Robert E. Born, Suite 1600, First Federal Building, Atlanta, Ga., 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement and mortar mixes*, including cement and mortar mixed with gravel, sand or other aggregates; rock or stone: Crushed, ground or natural; sand, cold mixed asphalt; liquid asphalt sealer (gilsonite asphalt and solvents, 100 F flash point); vinyl concrete patcher (cement and sand mixed with vinyl adhesives); lime; masonry coating (cement mixed with sand and other ingredients); tile grout (cement mixed with marble dust and other ingredients); hydraulic cement (cement mixed with sand and other ingredients); acrylic paints; adhesives; and advertising matter, (A) from the plantsite of W. R. Bonsal Co., Inc., at Atlanta, Ga., to points in Alabama, and Tennessee; (B) from the plantsite of W. R. Bonsal Co. at Lilesville, N.C., to points in South Carolina and Virginia, and Savannah, Ga., for 180 days. Supporting shipper: W. R. Bonsal Co., Inc., Post Office Box 212, Lilesville, N.C. Send protests to: William L. Scroggs, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 680 West Peachtree Street NW., Room 300, Atlanta, Ga., 30308.

No. MC 124236 (Sub-No. 20 TA), filed March 23, 1966. Applicant: CHEMICAL EXPRESS, INC., 3300 Republic National Bank Building, Dallas, Tex., 75201. Applicant's representative: W. D. White, 2505 Republic National Bank Tower, Dallas, Tex., 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from plantsite of Lone Star Cement Corp. at Dallas, Tex., to points in Oklahoma, Arkansas, and Louisiana, for 180 days. Supporting shipper: Lone Star Cement Corp., Post Office Box 5531, Dallas 22, Tex. Send protests to: E. K. Willis, Jr., District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 513 Thomas Building, 1314 Wood Street, Dallas, Tex., 75202.

No. MC 125861 (Sub-No. 3 TA), filed March 23, 1966. Applicant: NOEL TRANSFER & PACKAGE DELIVERY SERVICE, INC., 1400 Selby Avenue, St. Paul, Minn., 55104. Applicant's representative: Will S. Tomljanovich, 2327 Wycliff, St. Paul, Minn., 55114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (A) *Ice making, crushing, storage, or dispensing machines, or parts thereof;* (B) *bulk milk cooling, storage or dispensing machines, or parts thereof;* (C) *parts for dish washers, freezers, garbage disposals, refrigerators, and vacuum cleaners*, from St. Paul, Minn., to Hudson, Wis., under a continuing contract with Whirlpool Corp., St. Paul Division, St. Paul, Minn., for 180 days. Supporting shipper: Whirlpool Corp., St. Paul Division, St. Paul, Minn., 55106. Send protests to: A. E. Rathert, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, Minn., 55401.

No. MC 127834 (Sub-No. 2 TA), filed March 23, 1966. Applicant: CHEROKEE HAULING & RIGGING, INC., 509 Second Avenue South, Nashville, Tenn., 37210. Applicant's representative: Robert M. Pearce, Central Building, 1033 State Street, Bowling Green, Ky., 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Signs, sign poles, and parts and accessories therefor*, from Centerville, Tenn., to points in Alabama, California, Connecticut, Georgia, Illinois, Michigan, New York, and Texas, for 180 days. Supporting shipper: Rivers Manufacturing Co., Rivers Road, Centerville, Tenn., 37033 (Mr. W. M. Craig, Jr., Secretary-Treasurer). Send protests to: J. E. Gamble, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 706 U.S. Courthouse, Nashville, Tenn., 37203.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 66-3383; Filed, Mar. 29, 1966; 8:48 a.m.]

[Notice 389]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

MARCH 25, 1966.

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 2202 (Deviation No. 87), ROADWAY EXPRESS, INC., 1077 Gorge Boulevard, Post Office Box 471 Akron, Ohio, 44309, filed March 14, 1966. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route, as follows: From Nashville, Tenn., over Interstate Highway 65 to Ardmore, Ala.-Tenn., thence over Alabama Highway 53 to Huntsville, Ala., 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 Nashville, Tenn., over U.S. Highway 31 to junction U.S. Highway 72, thence over U.S. Highway 72 to Huntsville, Ala., and return over the same route.

No. MC 10343 (Deviation No. 10), CHURCHILL TRUCK LINES, INC., U.S. Highway 36 West, Chillicothe, Mo., 64601, filed March 21, 1966. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From St. Louis, Mo., over Interstate Highway 70 to junction U.S. Highway 63, thence over U.S. Highway 63 to Macon, 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 pertinent service routes as follows: From St. Louis, Mo., over U.S. Highway 40 to junction U.S. Highway 61, thence over U.S. Highway 61 to junction U.S. Highway 36, and thence over U.S. Highway 36 to Macon, Mo., and return over the same route.

No. MC 18253 (Deviation No. 1), EASTERN MOTOR DISPATCH, INC., 1215 West Mound Street, Columbus, Ohio, 43223, filed March 16, 1966. Carrier proposes to operate as a *common*

carrier, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From junction U.S. Highway 22 and U.S. Highway 30, immediately east of Pittsburgh, Pa., over U.S. Highway 30 to junction U.S. Highway 30 and former U.S. Highway 111, at York, Pa.; and (2) from junction U.S. Highway 22 and U.S. Highway 119, immediately west of New Alexandria, Pa., over U.S. Highway 119 to junction Interstate Highway 70, thence over Interstate Highway 70 to junction U.S. Highway 119, thence over U.S. Highway 119 to junction Pennsylvania Highway 31 at Ruffs Dale, Pa., thence over Pennsylvania Highway 31 to junction U.S. Highway 30, thence over U.S. Highway 30 to junction U.S. Highway 220, at Bedford, Pa., thence over U.S. Highway 220 to junction U.S. Highway 22, at Duncansville, Pa.; 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 pertinent service routes as follows: (1) From Pittsburgh, Pa., over U.S. Highway 22 (and former portions of U.S. Highway 22) to junction U.S. Highway 111 at Harrisburg, Pa., and thence over U.S. Highway 111 (now redesignated Interstate Highway 83) to York, Pa.; and (2) from Carlisle, Pa., over U.S. Highway 11 to junction U.S. Highway 111; and return over the same routes.

No. MC 30504 (Deviation No. 5), TUCKER FREIGHT LINES, INC., 1415 South Olive Street, South Bend, Ind., 46621; filed March 14, 1966. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Detroit, Mich., over Interstate Highway 94 to junction U.S. Highway 20, in Indiana, 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 pertinent service routes as follows: (1) From Elkhart, Ind., over U.S. Highway 20 via South Bend, Ind., to junction Indiana Highway 2, thence over Indiana Highway 2 to La Porte, Ind., thence over U.S. Highway 35 to Michigan City, Ind., thence over U.S. Highway 12 to Gary, Ind., thence over U.S. Highway 20 to Chicago, Ill.; (2) from Elkhart, Ind., over Indiana Highway 19 to the Indiana-Michigan State line, thence over Michigan Highway 205 to junction U.S. Highway 112, thence over U.S. Highway 112 to Mottville, Mich. (also from Elkhart, Ind., over Indiana Highway 120 to junction Indiana Highway 15, thence over Indiana Highway 15 to the Indiana-Michigan State line, thence over U.S. Highway 131 to Mottville), thence over U.S. Highway 131 to Three Rivers, Mich., thence over Michigan Highway 60 to Jackson, Mich., thence over U.S. Highway 12 to Ann Arbor, Mich., thence over Michigan Highway 14 (formerly U.S. Highway 12) to junction Michigan Highway 56, thence over Michigan Highway 56 to Plymouth, Mich., thence return over Michigan Highway 56 to junction Michigan Highway 14, thence over Michigan Highway 14 to Detroit, Mich.; and (3) from South Bend, Ind., over U.S. Highway 31 to Niles, Mich., thence over Michigan Highway 40 to Battle Creek, Mich., thence over Michigan Highway 78 to Flint, Mich.; and return over the same routes.

No. MC 71096 (Deviation No. 18), NORWALK TRUCK LINES, INC., Norwalk, Ohio, 44857, filed March 18, 1966. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: Between Grand Rapids, Mich., and Flint, Mich., over Michigan Highway 21, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follows: (1) From Toledo, Ohio, over U.S. Highway 223 to junction U.S. Highway 127, thence over U.S. Highway 127 to Lansing, Mich., thence over unnumbered highway (formerly portion U.S. Highway 16) to Grand Rapids, Mich., thence over unnumbered highway (formerly portion U.S. Highway 131) to Kalamazoo, Mich., and (2) from Battle Creek, Mich., over Michigan Highway 78 to junction unnumbered highway (formerly portion Michigan Highway 78), thence over unnumbered highway to junction Michigan Highway 78 near Swartz Creek, Mich., thence over Michigan Highway 78 to Flint, Mich., and return over the same routes.

MOTOR CARRIERS OF PASSENGERS

No. MC 1515 (Deviation No. 301), GREYHOUND LINES, INC. (Eastern Division), 1400 West Third Street, Cleveland, Ohio, 44113, filed March 17, 1966. 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 deviation routes as follow: (1) From Chicago, Ill., interchange of Interstate Highways 57 and 94 (at or near 99th Street and Wentworth Avenue) over Interstate Highway 57 to interchange of Interstate Highway 57 and Interstate Highway 70, west of Effingham, Ill.; (2) from Harvey, Ill., over U.S. Highway 6 to interchange of U.S. Highway 6 and Interstate Highway 57 in Markham, Ill.; (3) from junction Interstate Highway 94 and Interstate Highway 80, east of Thornton, Ill., over Interstate Highway 80 to junction Interstate Highway 57 in Hazelcrest, Ill.; (4) from Chicago Highways, Ill., over U.S. Highway 30 to interchange of U.S. Highway 30 and Interstate Highway 57 in Matteson, Ill.; (5) from Peotone, Ill., over unnumbered highway to the Peotone interchange of Interstate Highway 57; (6) from Manteno, Ill., over unnumbered highway to the Manteno interchange of Interstate Highway 57; (7) from Kankakee, Ill., over U.S. Highway 54 to interchange of U.S. Highway 54 and Interstate Highway 57 north of Bradley, Ill.; (8) from Kankakee, Ill., over Illinois Highway 17 to interchange of Illinois Highway 17 and Interstate Highway 57 east of Kankakee; (9) from Kankakee, Ill., over U.S. Highway 45 to interchange of U.S. Highway 45 and Interstate Highway 57 2 miles south of Kankakee; (10) from Gilman, Ill., over U.S. Highway 24 to interchange of U.S. Highway 24 and Interstate Highway 57 west of Gilman; (11) from Onarga, Ill., over U.S. Highway 54 to interchange of U.S. Highway 54 and Interstate Highway 57 west of Onarga; (12) from Paxton, Ill., over Illinois Highway 9 to interchange of Illinois Highway 9 and Interstate Highway 57 west of Paxton; (13) from Rantoul, Ill., over U.S. Highway 136 to interchange of U.S. Highway 136 and Interstate Highway 57 west of Rantoul; (14) from junction U.S. Highway 45 and Interstate Highway 74 north of Urbana, Ill., over Interstate Highway 74 to interchange of Interstate Highways 74 and 57 northwest of Champaign, Ill., with the following spur routes:

From Champaign over Neil or Prospect Streets to their intersection with Interstate Highway 74 just north of Champaign, and from Urbana over Lincoln Avenue, to its intersection with Interstate Highway 74 just north of Urbana; (15) from Champaign, Ill., over Illinois Highway 10 to interchange of Illinois Highway 10 and Interstate Highway 57 west of Champaign; (16) from Tuscola, Ill., over U.S. Highway 36 to interchange of U.S. Highway 36 and Interstate Highway 57 east of Tuscola; (17) from Mattoon, Ill., over Illinois Highway 16 to interchange of Illinois Highway 16 and Interstate Highway 57 east of Mattoon; (18) from Mattoon, Ill., over U.S. Highway 45 to interchange of U.S. Highway 45 and Interstate Highway 57 south of Mattoon; (19) from Effingham, Ill., over U.S. Highway 45 to interchange of U.S. Highway 45 and Interstate Highway 57 north of Effingham; and (20) from Effingham over U.S. Highway 40 to the interchange of U.S. Highway 40 and Interstate Highway 57 west of Effingham, and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over pertinent service routes, as follow:

(1) From Chicago over Halsted Avenue, to junction South Park Avenue, thence over South Park Avenue, to junction U.S. Highway 54, thence over U.S. Highway 54 via junction U.S. Highway 30 to Kankakee, Ill., thence over U.S. Highway 45 to Effingham, Ill., thence over U.S. Highway 40 to Mulberry Grove, Ill. * * * (also from Chicago over U.S. Highway 41 to Hammond, Ind., thence over Sibley Boulevard, to junction Torrence Avenue, thence over Torrence Avenue, to junction U.S. Highway 6, thence over U.S. Highway 6 to junction Illinois Highway 1, thence over Illinois Highway 1 to Chicago Heights, Ill., thence over U.S. Highway 30 to junction U.S. Highway 54); (2) from Chicago, Ill., over U.S. Highway 41 to Hammond, Ind., thence over Sibley Boulevard, to junction Illinois Highway 1, thence over Illinois Highway 1 to Norris City, Ill.; and (3) from junction Illinois Highway 1 and Illinois Highway 17 over Illinois Highway 17 to Kankakee, Ill., and return over the same routes.

No. MC 2890 (Deviation No. 56), AMERICAN BUSLINES, INC., 1805 Leavenworth Street, Omaha, Nebr., filed March 17, 1966. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express and newspapers*, in the same vehicle with passengers, over a deviation route as follows: Between Pine Bluffs, Wyo., and Rock Springs, Wyo., over Interstate Highway 80, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Valley, Nebr., over U.S. Highway 275 to junction U.S. Highway 30, thence over U.S. Highway 30 via Grand Island, Nebr., to junction U.S. Highway 30–S, near Little America, Wyo., and return over the same route.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 66-3384; Filed, Mar. 29, 1966; 8:48 a.m.]

[Notice 898]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

MARCH 25, 1966.

The following publications are governed by the new special rule 1.247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

APPLICATIONS ASSIGNED FOR ORAL HEARING

MOTOR CARRIERS OF PROPERTY

No. MC 31600 (Sub-No. 609) (Republication), filed February 24, 1966, published FEDERAL REGISTER, issue of March 17, 1966, and republished this issue. Applicant: P. B. MUTRIE MOTOR TRANSPORTATION, INC., Calvary Street, Waltham, Mass., 02154. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Plasticizers*, in bulk, in tank vehicles, from Toledo, Ohio, and points within five (5) miles thereof, to points in Connecticut, Illinois, Indiana, Kentucky, Maine, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, West Virginia, and Wisconsin. NOTE: The purpose of this republication is to reflect the hearing information.

HEARING: April 6, 1966, at the U.S. Post Office and Courthouse, 231 West Lafayette Street, Detroit, Mich., before Examiner William E. Messer.

No. MC 52657 (Sub-No. 644), filed March 14, 1966. Applicant: ARCO AUTO CARRIERS, INC., 2140 West 79th Street, Chicago, Ill., 60620. Applicant's representative: A. J. Bieberstein, 121 West Doty Street, Madison, Wis., 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automobiles*, in secondary movements, by the truckaway method, restricted to the transportation of vehicles manufactured or assembled at the site of the plant of American Motors (Canada), Ltd., in Brampton, Ontario, Canada, (1) from Pittsburgh, Pa., and points within twenty (20) miles thereof, to points in Maryland, Ohio, Pennsylvania, and West Virginia, (2) from Hagerstown, Md., and points within twenty (20) miles thereof, to points in Delaware, Maryland, Pennsylvania, Virginia, West Virginia, and the District of Columbia, and (3) from Earnest, Pa., and points within twenty (20) miles thereof, to points in Connecticut, Delaware, Maryland, New Jersey, New York, Pennsylvania, and the District of Columbia.

HEARING: April 26, 1966, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner W. Elliott Nefflen.

No. MC 110988 (Sub-No. 183), filed March 3, 1966. Applicant: KAMPO TRANSIT, INC., 200 Cecil Street, Neenah, Wis. Applicant's representative: E. Stephen Heisley, Ames, Hill & Ames, 529 Transportation Building, Washington, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plasticizers*, in bulk, in tank vehicles, from Toledo, Ohio, and points within 5 miles thereof, to points in Connecticut, Illinois, Indiana, Kentucky, Maine, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, West Virginia, and Wisconsin.

HEARING: April 6, 1966, at the U.S. Post Office and Courthouse, 231 West Lafayette Street, Detroit, Mich., before Examiner William E. Messer.

No. MC 114045 (Sub-No. 239), filed March 10, 1966. Applicant: TRANS-COLD EXPRESS, INC., Post Office Box 5842, Dallas, Tex. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the plantsite of Pet Milk Co., at Chickasha, Okla., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, and the District of Columbia.

HEARING: April 19, 1966, at the Claridge Hotel, Main Street and Adams Avenue, Memphis, Tenn., before Examiner Richard H. Roberts.

No. MC 117119 (Sub-No. 357), filed March 2, 1966. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., Elm Springs, Ark. Applicant's representative: John H. Joyce, 26 North College, Fayetteville, Ark. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Detroit, Mich., to points in Missouri, Tennessee, Iowa, and Wisconsin.

HEARING: April 7, 1966, at the U.S. Post Office and Courthouse, 231 West LaFayette Street, Detroit, Mich., before Examiner William E. Messer.

No. MC 79695 (Sub-No. 28) (Republication), filed December 24, 1965, published FEDERAL REGISTER issue of January 13, 1966, and republished, this issue. Applicant: STEEL TRANSPORTATION CO., INC., 4000 Cline Avenue, East Chicago, Ind. Applicant's representative: Robert W. Loser, 409 Chamber of Commerce Building, Indianapolis, Ind., 46204. In the above-entitled proceeding the examiner recommended the issuance to applicant of a certificate of public convenience and necessity authorizing operation by applicant in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of nonferrous metals and plastic products, moving in mixed shipments with iron and steel articles, between Chicago, Ill., on the one hand, and, on the other, Indianapolis, Ind., restricted to movements between the warehouse site of the Joseph T. Ryerson & Son, Inc., at Indianapolis, Ind., and the warehouse site of Joseph T. Ryerson & Son, Inc., at Chicago, Ill. A Decision and Order of the Commission, Operating Rights Review Board Number 3, dated March 16, 1966, and served March 22, 1966, finds that operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of *nonferrous metals and plastic products*, when moving in the same vehicle at the same time with iron and steel articles, between Chicago, Ill., on the one hand, and, on the other, Indianapolis, Ind., restricted to the transportation of traffic moving between the warehouse site of the Joseph T. Ryerson & Son, Inc., at Chicago, Ill., and the warehouse site of Joseph T. Ryerson & Son, Inc., at Indianapolis, Ind. A notice of the authority actually granted herein will be published in the FEDERAL REGISTER and the issuance of the certificate herein will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest, who may have relied upon the notice of the application as originally published and would be prejudiced by lack of proper notice of the authority actually granted herein, may file an appropriate pleading.

No. MC 124770 (Sub-No. 7) (Republication), filed August 16, 1965, published FEDERAL REGISTER issue of August 26, 1965, and republished, this issue. Applicant: TELLERI TRUCKING CO., a corporation, 335 Allen Street, Elizabeth, N.J. Applicant's representative: Bert Collins, 140 Cedar Street, New York 6, N.Y. By application filed August 16, 1965, as amended, applicant seeks a permit authorizing operations, in interstate

or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of meats and meat products, in vehicles equipped with mechanical refrigeration from points in Union County, N.J., to points in Fairfield County, Conn. and Westchester County, N.Y. and returned, rejected, and damaged shipments in the reverse direction. An Order of the Commission, Operating Rights Board No. 1, dated March 14, 1966, and served March 21, 1966, finds that operation by applicant, in interstate or foreign commerce, as a contract carrier by motor vehicle over irregular routes, of *meat and meat products*, in vehicles equipped with mechanical refrigeration, from Linden, N.J., to points in Fairfield County, Conn. and Westchester County, N.Y., under a continuing contract with Allen Packing Co. of Linden, N.J., will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate protest or other pleading.

No. MC 124083 (Sub-No. 22) (Republication), filed October 4, 1965, published FEDERAL REGISTER issue of October 21, 1965, and republished, this issue. Applicant: SKINNER MOTOR EXPRESS, INC., 6341 West Minnesota Street, Indianapolis, Ind. Applicant's representative: James J. Williams, 1012 14th Street NW., Washington, D.C., 20005. By application filed October 4, 1965, applicant seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of the coke, in unit bulk pack containers, from and to the points indicated in the findings below. An Order of the Commission, Operating Rights Board No. 1, dated March 14, 1966, and served March 22, 1966, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of *coke*, from Indianapolis, Ind., to points in Illinois and Michigan, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate protest or other pleading.

NOTICE OF FILING OF PETITIONS

No. MC 52657 and Subs 6, 7, 214, 297, 350, 355, 449, and 600 (Notice of filing of petition to modify certificates), filed February 23, 1966. Petitioner: ARCO AUTO CARRIERS, INC., 2140 West 79th Street, Chicago, Ill. Petitioner's representative: Adolph J. Bieberstein, 121 West Doty Street, Madison, Wis., 53703. Petitioner states that its authority includes the following commodities: (a) Parts of automobiles, trucks, tractors, trailers, and chassis; (b) Automobile show equipment; (c) Advertising matter; (d) Cabs; (e) Bodies; (f) Parts of cabs and bodies; (g) Equipment pertaining to tractors, trucks, trailers, busses, and their chassis; (h) Truck and trailer bodies; (i) Hoists; (j) Freight gates; and (k) Containers. It also states that the instant petition was filed pursuant to the suggestion of the Commission in *Matson, Inc.—Extension*, 96 M.C.C. 648; and that by this petition it prays that the Commission modify the certificates herein referred to by incorporating an appropriate provision in each, indicating the nonapplicability of the restrictions "in initial movements," "in secondary or subsequent movements," "in driveaway service," and/or "truckaway service" in connection with the transportation of "parts," "automobile show equipment and advertising matter," "automobile show equipment and supplies," "new bodies," "bodies," "new cabs," "cabs," "parts and equipment," "new truck bodies," "new automobile bodies," "automobile show equipment," "truck and trailer bodies," "hoists," "freight gates," and "containers." Any interested person desiring to participate may file an original and six copies of his written representations, views, or argument in support of, or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 106497 (Sub-No. 4) (Notice of filing of petition for clarification and interpertation of certificate), filed February 18, 1966. Petitioner: PARKHILL TRUCK COMPANY, a corporation, Tulsa, Okla. Petitioner's representative: Lamar Polk, 715 Johnston Street, Alexandria, La. Petitioner states it holds a certificate authorizing, among other things, the following transportation: *Commodities*, the transportation of which because of their size or weight requires the use of special equipment or handling, except those specified above, and *parts of commodities*, the transportation of which because of their size or weight requires the use of special equipment or handling, except those specified above, over irregular routes, between points in Arkansas, Colorado, Iowa, Kansas, Louisiana, Missouri, New Mexico, Oklahoma, Texas, and Wyoming. Petitioner states that it transports from the Dow Chemical Plant at Plaquemine, La., to docksite in Port Allen, La. (all within the State of Louisiana), chemicals and plastic materials or products shipped in bags or containers, which are palletized as required by the barge or ship carrier that transports the commodity from docksite to point of destination; that the palletized units are loaded on its trucks with lift equipment, unloaded with specialized equipment and held in transit storage until transportation is available to complete movement to final destination outside of Louisiana. By the instant petition, petitioner desires a clarification and interpretation of its authority to determine if the commodity description authorizes the transportation service as hereinabove described; that such shipments, are shipments in interstate commerce; and that petitioner requests a hearing on this petition, and that after said hearing the Commission make a determination as to whether or not the transportation service as set forth in said petition is authorized under its present certificate. Any interested person desiring to participate may file an original and six copies of his written representations, views, or argument in support of, or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

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 45530 (Sub-No. 2), filed March 9, 1966. Applicant: PEERLESS MOTOR EXPRESS, INC., Water Street, Holbrook, Mass. Applicant's representative: Mary E. Kelley, 10 Tremont Street, Boston, Mass. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading), between points in Massachusetts. NOTE: This application is directly related to MC-F-9367, published FEDERAL REGISTER issue of March 16, 1966.

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-9366 (correction) (MERCHANTS FAST MOTOR LINES, INC.—CONTROL AND MERGER—AMARILLO-BORGER EXPRESS, INC.), published in the March 16, 1966, issue of the FEDERAL REGISTER on page 4466. The note in the notice inadvertently stated that MC-2228 (Sub-No. 49) was a matter

directly related, when it should have stated that MC–2228 (Sub-No. 50) is a matter directly related.

No. MC–F–9375. (Correction) (GULF MOVING & STORAGE CO., INC., AND MODERN MOVING & STORAGE, INC.—CONTROL—U.S. VAN LINES, INC.), published in the March 23, 1966, issue of the FEDERAL REGISTER on page 4862. Applicants seek to control U.S. VAN LINES, INC., in lieu of UNITED STATES VAN LINES, INC., which was erroneously stated. SELECT VAN AND STORAGE (a no-record carrier), 2930 South 26th Street, Omaha, Nebr., 68105, should also be included as a party applicant seeking to control vendee. Applicant included a "motion in behalf of the Applicants to dismiss" the application.

No. MC–F–9381. Authority sought for purchase by BEST TRUCK LINES, INC., 321 North Main, Ottawa, Kans., of the operating rights of APEX FAST FREIGHT, INC., Orchards and Rogers Streets, Clinton, Mo., and for acquisition by NELCE ISHAM, 1517 South Cedar, Ottawa, Kans., of control of such rights through the purchase. Applicants' attorney: Frank W. Taylor, Jr., 1221 Baltimore, Kansas City, Mo., 64105. Operating rights sought to be transferred: Under a certificate of registration, in Docket No. MC–121219 (Sub No. 2), covering the transportation of property, as a common carrier, in intrastate commerce, within the State of Missouri. Vendee is authorized to operate as a common carrier in Kansas and Missouri. Application has been filed for temporary authority under section 210a(b).

No. MC–F–9382. Authority sought for control and merger by E. L. POWELL & SONS TRUCKING CO., INC., 3777 South Jackson, Tulsa, Okla., of the operating rights and property of TROJAN TRANSIT, INC., 5315 South 49th West Avenue, Tulsa, Okla., and for acquisition by H. H. POWELL, 3777 South Jackson, Tulsa, Okla., of control of such rights and property through the transaction. Applicants' attorney: W. T. Brunson, 419 Northwest Sixth Street, Oklahoma City, Okla., 73102. Operating rights sought to be controlled and merged: *Oil field equipment, machinery, materials, and supplies*, as a *common carrier*, over irregular routes, between certain specified points in Texas, on the one hand, and on the other, certain specified points in New Mexico; *machinery, equipment, materials and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum, and their products and byproducts, and *machinery, materials, equipment and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking-up thereof, between points in Texas, on the one hand, and, on the other, points in Kansas and Oklahoma; *machinery, equipment, materials and supplies*, used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum, and their products and byproducts, and *machinery, materials, equipment, and supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking-up thereof, except the stringing or picking-up of pipe in connection with main or trunk pipelines, between points in Texas, Oklahoma, Kansas, and Colorado;

Such commodities as require the use of special equipment by reason of size or weight other than those specified immediately above, between points in Texas, Oklahoma, and Colorado; *machinery, materials, supplies, and equipment* incidental to, or used in, the construction, development, operation, and maintenance of facilities for the discovery, development, and production of natural gas and petroleum, between points in Kansas, Oklahoma, and Texas; *oil field equipment and supplies*, between certain specified points in Texas; *machinery, equipment, materials, and supplies* used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and byproducts, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights of way, between certain specified points in Texas, on the one hand, and, on the other, certain specified points in New Mexico, between points in Texas, Oklahoma, Kansas, and Colorado, between certain specified points in Texas. E. L. Powell & Sons Trucking Co., Inc., is authorized to operate as a *common carrier* in Kansas, New Mexico, Oklahoma, Texas, Mississippi, Colorado, Wyoming, Montana, North Dakota, South Dakota, Louisiana, Arkansas, Missouri, Utah, and Arizona. Application has not been filed for temporary authority under section 210a(b). NOTE: If a hearing is deemed necessary, applicants request that it be held at Tulsa, Okla.

No. MC–F–9383. Authority sought for control by VANCOUVER FAST FREIGHT, INC., 304 Columbia Street, Vancouver, Wash., of SOUTHWEST DELIVERY CO., INC., 304 Columbia Street, Vancouver, Wash., and for acquisition by ERNEST CHRISTENSEN, 6318 East Evergreen Highway, Vancouver, Wash., of control of SOUTHWEST DELIVERY CO., INC., through the acquisition by VANCOUVER FAST FREIGHT, INC. Applicants' attorneys: White, Sutherland & Gilbertson, 1200 Jackson Tower, Portland, Oreg., 97205. Operating rights sought to be controlled: In pending docket No. MC–126714, seeking authority to operate general commodities (except such commodities as require the use of special equipment or handling), as a common carrier, over irregular routes, between points in Clark and Skamania Counties, Wash., on the one hand, and, on the other, points in and east of Okanogan, Chelan, Kittitas, Yakima and Klickitat Counties, Wash. (excluding Spokane County), with restriction. Vancouver Fast Freight, Inc., is authorized to operate as a common carrier in Washington and Oregon. Application has not been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 66–3385; Filed, Mar. 29, 1966; 8:48 a.m.]

[Notice 900]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

MARCH 25, 1966.

The following publications are governed by the new Special Rule 1.247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

APPLICATIONS ASSIGNED FOR ORAL HEARING

MOTOR CARRIERS OF PROPERTY

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 witnesses 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 statement as numbered appendices thereto.

(4) The admissibility of the evidence contained in the written statements and the appendices thereto, will be at the time of offer, 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 in-

advertent omissions in his written statement is permissible.

No. MC 110193 (Sub-No. 136), filed March 7, 1966. Applicant: SAFEWAY TRUCK LINES, INC., 20450 Ireland Road, Post Office Box 2628, South Bend, Ind. Applicant's representative: Walter J. Kobos, Post Office Box 2628, South Bend, Ind. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel, and iron and steel articles* between points in Pennsylvania, Ohio, West Virginia, Indiana, Illinois, Wisconsin, and Michigan.

HEARING: April 25, 1966, at Pittsburgh, Pa., before Examiner Warren C. White. Place of hearing to be announced at a later date.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 66-3386; Filed, Mar. 29, 1966; 8:48 a.m.]

[No. MC-C-5086]

BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS, FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYEES, AFL-CIO

Notice of Filing of Petition Seeking Carrier Status of Rail-Affiliated Motor Carriers; Correction

MARCH 25, 1966.

Petitioner: Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees, AFL-CIO.

Petitioner's representatives: W. J. Donlon, General Counsel, 1015 Vine Street, Cincinnati, Ohio; and Joseph Lazar, attorney at law, 401 Chantaugne Park, Boulder, Colo. Notice of the filing of this petition was published in the FEDERAL REGISTER, issue of March 16, 1966. The purpose of this republication is to show the correct number assigned thereto, No. MC-C-5086, in lieu of No. MC-C-5068, which was published in error.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 66-3387; Filed, Mar. 29, 1966; 8:49 a.m.]

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

MARCH 25, 1966.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

State docket numbers unassigned (Correction), filed February 23, 1966, published FEDERAL REGISTER, issue of March 16, 1966, and republished as corrected, this issue. Applicants: FILM TRANSFER CO., INC., 2500 South Harwood Street, Dallas, Tex. WILLIAM THOMAS HAWKINGS, doing business as HAWKINS FILM SERVICE, 427 West Hollywood Avenue, San Antonio, Tex. REED FILM SERVICE, INC., 518 South Main Street, San Antonio, Tex. CLARA A. W. MCARTHUR, doing business as HEART O' TEXAS FILM LINES, 4500 Nuchols Crossing Road, Austin, Tex. BROWN EXPRESS, INC., Post Office Box 176, Paris, Tex. NEW FILM AGENCY CO., INC., 2500 South Harwood Street, Dallas, Tex. VALLEY FILM SERVICE, INC., 518 South Main Street, San Antonio, Tex. LIBERTY FILM LINES, INC., 2500 South Harwood Street, Dallas, Tex. TEXAS FILM SERVICE, INC., 518 South Main Street, San Antonio, Tex. Applicants' representatives: Rogers & Sayers, 313 Perry-Brooks Building, Austin 1, Tex., and Lanham & Hatchell, 1102 Perry-Brooks Building, Austin 1, Tex. NOTE: The purpose of this republication is to correct the following error in the FEDERAL REGISTER of Wednesday, March 16, 1966: Reagan Sayers, whose address was incorrectly given, was erroneously listed as one of applicants, representatives. Reagan Sayers, whose correct address is 301 Century Life Building, Fort Worth, Tex., 76102, does not and has not represented applicants.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 66-3388; Filed, Mar. 29, 1966; 8:49 a.m.]

[3d. Rev. S.O. 562; Pfahler's ICC Order 202]

SOO LINE RAILROAD CO.

Rerouting Traffic

In the opinion of H. R. Longhurst, Agent, the Soo Line Railroad Co. is unable to transport heavily loaded carload traffic over tracks partially owned by itself and the Chicago & North Western Railway Co. between Wisconsin Rapids and Marshfield, Wis., because the condition of the Chicago & North Western Railway Co.'s portion of the track is such that it has imposed a gross weight limit of 221,000 pounds per car, pending repairs and restoration to normal service.

It is ordered, That:

(a) Rerouting traffic: The Soo Line Railroad Co., and its connections, being unable to transport heavily loaded carload traffic in accordance with shippers' routing over tracks partially owned by itself and the Chicago & North Western Railway Co. between Wisconsin Rapids and Marshfield, Wis., because the condition of the Chicago & North Western Railway Co.'s portion of track is such that it has imposed a gross weight limitation of 221,000 pounds per car, pending repairs and restoration to normal service, is hereby authorized to reroute or divert such traffic over any available route to expedite the movement. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) Concurrence of receiving roads to be obtained: The railroad desiring to divert or reroute traffic under this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) Notification to shippers: Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic by said Agent is deemed to be due to carrier's disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic; divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) Effective date: This order shall become effective at 9 a.m., March 24, 1966.

(g) Expiration date: This order shall expire at 11:59 p.m., May 31, 1966, unless otherwise modified, changed, or suspended.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as Agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement and by filing it with the Director, Office of the Federal Register.

Issued at Washington, D.C., March 23, 1966.

INTERSTATE COMMERCE COMMISSION,
[SEAL] H. R. LONGHURST, *Agent.*

[F.R. Doc. 66-3321; Filed, Mar. 28, 1966; 8:51 a.m.]

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PART II

Department of Health, Education, and Welfare

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Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines

Title 45—PUBLIC WELFARE

Subtitle A—Department of Health, Education, and Welfare, General Administration

PART 85—CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES

On December 31, 1965, notice of proposed rule making was published in the FEDERAL REGISTER (30 F.R. 17192) which set out the text of regulations proposed to be adopted as Part 85. The period of public participation was thereafter extended to February 7, 1966, by notice published in the FEDERAL REGISTER on February 3, 1966 (31 F.R. 1312).

Pursuant to the above notices, a number of comments have been received from representatives of domestic and foreign manufacturers, and due consideration has been given to all relevant matter presented.

In the light of such consideration, a number of amendments have been made to the rules as proposed, principally with respect to the new motor vehicle engines in the lower ranges of cubic inch displacement.

These amendments, which, among other things, establish standards for exhaust emissions for classes of such smaller engines and provide optional shift points in the test procedures for a class of such engines, give equitable treatment to these engines in the measurement of exhaust emission pollutants as provided in the rules. In addition, the final rule makes provision for hearings on certification and contains certain technical and clarifying modifications.

As stated in the notice of proposed rule making, taking into consideration the technological feasibility and the economic costs of meeting these standards, and the lead time necessary under current manufacturing processes to conform to these requirements, it was considered necessary that these regulations become effective immediately on republication.

Accordingly, Part 85, as set out below, is hereby adopted, effective on publication in the FEDERAL REGISTER and is applicable to new motor vehicles and new motor vehicle engines beginning with the 1968 model year.

Subpart—General Provisions

Subpart—Crankcase Emissions

Subpart—Exhaust Emissions

Subpart—Certification of Motor Vehicles and Motor Vehicle Engines

Subpart—Hearings on Certification

Subpart—Test Procedure for Vehicle Exhaust Emissions (Gasoline Engines)

AUTHORITY: The provisions of this Part 85 issued under sec. 301(a), sec. 1, Pub. Law 88-206 as amended, 77 Stat. 400; 42 U.S.C. 1857g(a). Interpret or apply secs. 202, 203, 206 and 207, Title II, Pub. Law 89-272, 79 Stat. 992-994, inclusive.

Subpart—General Provisions

§ 85.1 Definitions.

(a) As used in this part, all terms not defined herein shall have the meaning given them in the Act.

(b) "Act" means the Motor Vehicle Air Pollution Control Act (Title II of the Clean Air Act as added by Public Law 89-272), 42 U.S.C. 1857, et seq.

(c) "Secretary" means the Secretary of Health, Education, and Welfare.

(d) "Surgeon General" means the Surgeon General of the Public Health Service, Department of Health, Education, and Welfare.

(e) "Exhaust emission" means substances emitted to the atmosphere from any opening downstream from the exhaust port of a motor vehicle engine.

(f) "Model year" means the annual production period of new motor vehicles or new motor vehicle engines designated by the calendar year in which such period ends, provided that if the manufacturer does not so designate vehicles and engines manufactured by him, then the model year with respect to such vehicles and engines shall mean the 12-month period beginning January 1 of the year specified herein.

(g) "System or device" includes any motor vehicle engine modification which controls or causes the reduction of substances emitted from motor vehicles or motor vehicle engines.

(h) "Lifetime emissions" means the average level of exhaust emissions from a new motor vehicle engine equivalent to 100,000 miles of normal operation of a motor vehicle in an urban area.

§ 85.2 General standards: increase in emissions; unsafe conditions.

(a) In addition to all other standards or requirements imposed by this part, any system or device installed on or incorporated in a new motor vehicle or new motor vehicle engine to prevent or control air pollution therefrom in compliance with regulations in this part:

(1) Shall not in its operation or function cause the emission into the ambient air of any noxious or toxic matter that is not emitted in the operation of such motor vehicle or motor vehicle engine without such system or device, except as specifically permitted by regulations; and

(2) Shall not in its operation or function, or malfunction, result in any unsafe condition endangering the motor vehicle, or its occupants, or persons or property in close proximity to the vehicle.

(b) The manufacturer of any new motor vehicle or new motor vehicle engine on or in which a system or device is installed or incorporated to comply with the regulations in this part shall, prior to any of the actions specified in section 203(a)(1) of the Act, test, or cause to be tested, such motor vehicle or engine in accordance with good engineering practice to ascertain that vehicles or engines so equipped will meet the requirements of this section for not less than 50,000 miles as measured in accordance with mileage accumulation provisions of the Test Procedures for Vehicle Exhaust Emissions (Gasoline Engines) of this part.

§ 85.3 Abbreviations.

The abbreviations used in this part have the following meanings in both capital and lower case:

AMA—Automobile Manufacturers Association.
Accel—Acceleration.
CO—Carbon Monoxide.
CO_2—Carbon Dioxide.
Conc—Concentration.
Decel—Deceleration.
EP—End Point.
Evap—Evaporated.
F—Fahrenheit.
Gal—Gallon(s).
HC—Hydrocarbon(s).
Hi—High.
HP—Horsepower.
ID—Internal Diameter.
Lb—Pound(s).
Max—Maximum.
Min—Minimum; also minute(s).
Ml—Milliliter(s).
MPH—Miles per hour.
Mm—Millimeter(s).
Mv—Millivolt(s).
N_2—Nitrogen.
No—Number.
Ppm—Parts per million (parts by volume).
Psi—Pounds per square inch.
Psig—Pounds per square inch gauge.
RPM—Revolutions per minute.
RVP—Reid Vapor Pressure.
Sec—Second(s).
SS—Stainless Steel.
TEL—Tetraethyl Lead.
TML—Tetramethyl Lead.
V—Volt(s).
Vs—Versus.
WOT—Wide open throttle.

Wt—Weight.
'—Feet.
"—Inches.
°—Degree(s).
%—Percent.

Subpart—Crankcase Emissions

§ 85.10 Applicability.

The provisions of this subpart are applicable to all gasoline powered new motor vehicles and new motor vehicle engines beginning with the model year 1968 for such vehicles or engines.

§ 85.11 Standard for crankcase emissions.

No crankcase emissions shall be discharged into the ambient atmosphere from any new motor vehicle or new motor vehicle engine subject to this subpart.

§ 85.12 Standards for crankcase emission control systems and devices.

The manufacturer of any new motor vehicle or new motor vehicle engine on or in which a system or device is installed or incorporated to comply with the requirements of § 85.11 shall, prior to any of the actions specified in section 203(a)(1) of the Act, test, or cause to be tested, such motor vehicle or engine, in accordance with good engineering practice to ascertain that vehicles or engines so equipped and maintained in accordance with the manufacturer's recommendations can be expected to meet the requirements of § 85.11 for not less than 1 year after sale and delivery to the ultimate purchaser.

Subpart—Exhaust Emissions

§ 85.20 Applicability.

(a) The provisions of this subpart are applicable to all gasoline powered new motor vehicles and new motor vehicle engines beginning with the model year 1968 for such vehicles or engines except (1) motorcycles and motorcycle engines; (2) commercial vehicles over one-half ton or equivalent and engines installed in such vehicles; i.e., vehicles whose design capacity is in excess of one-half ton or equivalent; and (3) motor vehicles with an engine displacement of less than 50 cubic inches.

(b) As used in this section:

(1) "Commercial vehicle" means a vehicle designed primarily for the transportation of persons for hire or for the transportation of property.

(2) "Motorcycle" means any motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels (including any tricycle wheel arrangement) in contact with the ground and weighing less than 1,500 pounds.

§ 85.21 Standards for exhaust emissions.

(a) Exhaust emissions from new motor vehicles and new motor vehicle engines subject to this subpart shall not exceed:

(1) Vehicles with an engine displacement of 50 cubic inches or more but not in excess of 100 cubic inches:

(i) Hydrocarbons—410 parts per million.

(ii) Carbon monoxide—2.3 percent by volume.

(2) Vehicles with an engine displacement in excess of 100 cubic inches but not more than 140 cubic inches:

(i) Hydrocarbons—350 parts per million.

(ii) Carbon monoxide—2.0 percent by volume.

(3) Vehicles with an engine displacement in excess of 140 cubic inches:

(i) Hydrocarbons—275 parts per million.

(ii) Carbon monoxide—1.5 percent by volume.

(b) The standard set forth in paragraph (a) of this section refers to a composite sample representing the driving cycles set forth in the Test Procedure for Vehicle Exhaust Emissions (Gasoline Engines) of this part and measured in accordance with those procedures.

§ 85.22 Standards for exhaust emission control systems and devices.

The manufacturer of any new motor vehicle or new motor vehicle engine on or in which a system or device is incorporated or installed to comply with the requirements of § 85.21 shall, prior to any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested such motor vehicle or engine in accordance with the Test Procedure for Vehicle Exhaust Emissions (Gasoline Engines) of this part to ascertain that the lifetime emissions of motor vehicles or engines so equipped, as measured and calculated in accordance with those procedures, and tested for durability as therein set forth, will meet the requirements of § 85.21.

Subpart—Certification of Motor Vehicles and Motor Vehicle Engines

§ 85.60 Applicability.

The provisions of this subpart are applicable to new motor vehicles and new motor vehicle engines subject to the standards prescribed in this part.

§ 85.61 Application for certification.

(a) An application for a certificate of conformity to regulations applicable to any new motor vehicle, new motor vehicle engine, or new motor vehicle engine-transmission combination may be made to the Secretary by any manufacturer.

(b) The application shall be in writing, signed by an authorized representative of the manufacturer, and shall include the following:

(1) Identification and description of the vehicles and engines with respect to which certification is requested.

(2) Durability data on such vehicles and engines tested in accordance with applicable test procedures in Test Procedure for Exhaust Emissions (Gasoline Engines) of this part, or demonstrably equivalent procedures, and in such numbers as there specified, which will show the performance of the system or device installed on or incorporated in the vehicle or engine for extended mileage, as well as a record of all pertinent maintenance performed on the test vehicles.

(3) Emission data on such vehicles and engines tested in accordance with the applicable exhaust emission test procedures, or demonstrably equivalent procedures, and in such numbers as there specified, which will show the low mileage performance on all the engines for which certification is requested.

(4) A description of tests performed to ascertain compliance with the general standards of § 85.2 and the data derived from such tests.

(5) A statement of recommended maintenance and procedures necessary to assure that the vehicle and engine in operation conform to the regulations, a description of the program for training of personnel for such maintenance, and the equipment required.

(6) A statement that the vehicles and engines with respect to which data are submitted have been tested in accordance with the applicable test procedures, that they meet the requirements of such tests, and that, on the basis of such tests, they conform to the requirements of the regulations in this part. If such statements cannot be made with respect to any vehicle or engine tested, the vehicle or engine shall be identified, and all pertinent test data relating thereto shall be supplied.

(7) An agreement that, upon the Surgeon General's request made not later than 1 month after the submission of the application pursuant to this section, any one or more of the test vehicles or engines will be supplied to the Surgeon General at such place or places in the United States as he may designate for such testing as he may require, or will be made available at the manufacturer's facility for such testing: *Provided*, That in the latter case, it is further agreed that instrumentation and equipment specified by the Surgeon General will be made available for test operations. Any testing conducted at a manufacturer's facility pursuant to this subparagraph will be scheduled as promptly as possible subject to the availability of personnel and funds for such purpose.

(8) An agreement that a reasonable number of vehicles which are representative of the engines and transmissions offered and typical of production models available for sale to the public, covered under section 206(b) of the Act by a certificate of conformity issued with respect to such vehicles or their engines, and selected from time to time by the Surgeon General, will be supplied to him, after availability for public sale, for testing for such reasonable periods as he may require.

§ 85.62 Certification.

(a) If, after a review of the test reports and data submitted by the manufacturer and data derived from such additional testing as the Surgeon General, may conduct, the Secretary determines that a new motor vehicle or new motor vehicle engine conforms to the regulations of this part, he will issue a certificate of conformity with respect to such vehicle or engine.

(b) Such certificate will be issued for such period not less than 1 model year as the Secretary may determine and

upon such terms as he may deem necessary to assure that any new motor vehicle or new motor vehicle engine meeting the requirements of section 206(b) of the Act will meet the requirements of these regulations relating to durability and performance.

Subpart—Hearings on Certification

§ 85.63 Hearing.

(a) If, after a review of the test reports and data submitted by the manufacturer and data derived from such additional testing as the Surgeon General may conduct, the Secretary has reason to believe that any new motor vehicle, new motor vehicle engine, or new motor vehicle engine-transmission combination, covered by an application for certification filed pursuant to § 85.61, does not conform with the regulations of this part or that any certificate with respect thereto should be made on terms, as specified in § 85.62(b), he will prior to the denial of a certificate or the issuance of a certificate on terms not agreed to by the applicant with respect to such vehicle, engine or engine-transmission combination, give reasonable notice in writing and opportunity for a hearing to the applicant on such matters, and a statement, as applicable, of the grounds on which such certification is proposed to be denied or of the terms on which such certificate is proposed to be issued together with copies of any reports, data, or record of tests conducted by the Surgeon General which are considered to support the proposed action.

(b) A Presiding Officer will be designated by the Secretary for the purposes of the hearing either in the notice or after receipt of a request for a hearing.

(c) The General Counsel will represent the Department of Health, Education, and Welfare in any hearing under this subpart and will be deemed a party to all proceedings in connection with such hearing.

(d) A request for a hearing pursuant to notice given under paragraph (a) of this section shall be made in writing by an authorized representative of the applicant and shall be filed with the Secretary, or if a Presiding Officer has been designated, with such Officer, within the time allowed by such notice. The request shall specify which of the grounds or terms set out in the notice, or in the statement accompanying such notice, is claimed to be erroneous and the reasons therefor.

(e) A brief or memorandum of arguments in support of the applicant's position may be filed with the request for a hearing or within 15 days after the mailing or filing of the request.

(f) If a time and place for the hearing have not been fixed by the Secretary in the notice given under paragraph (a) of this section, the hearing shall be held as soon as practicable at a time and place fixed by the Secretary or by the Presiding Officer.

§ 85.64 Hearing file.

(a) Upon receipt of a request for a hearing pursuant to this section, a hearing file will be established by the Presiding Officer. The file shall consist of the notice issued by the Secretary under § 85.63 together with any accompanying material, the request for a hearing and the memorandum of arguments, if any, submitted therewith and all documents relating to the request for certification, including the application for certification and all documents submitted therewith, and correspondence and other data material to the hearing.

(b) The appeal file will be available for inspection by the applicant at the office of the Presiding Officer.

§ 85.65 Representation.

An applicant may appear in person, or may be represented by counsel or by any other duly authorized representative.

§ 85.66 Prehearing conference.

(a) The Presiding Officer upon the request of any party, or in his discretion, may arrange for a prehearing conference at a time and place specified by him to consider the following:

(1) Simplification of the issues;

(2) Stipulations, admissions of fact, and the introduction of documents;

(3) Limitation of the number of expert witnesses;

(4) Possibility of agreement disposing of all or any of the issues in dispute;

(5) Such other matters as may aid in the disposition of the hearing, including such additional tests as may be agreed upon by the parties.

(b) The results of the conference shall be reduced to writing by the Presiding Officer and made a part of the record.

§ 85.67 Conduct of hearings.

(a) Hearings shall be conducted by the Presiding Officer in an informal but orderly and expeditious manner. The parties may offer oral or written evidence, subject to the exclusion by the Presiding Officer of irrelevant, immaterial and repetitious evidence.

(b) Witnesses will not be required to testify under oath. However, the Presiding Officer shall call to the attention of witnesses that their statements may be subject to the provisions of Title 18 U.S.C. 1001 which imposes penalties for knowingly making false statements or representations, or using false documents in any matter within the jurisdiction of any department or agency of the United States.

(c) Any witness may be examined or cross-examined by the Presiding Officer, the parties or their representatives.

(d) Hearings shall be reported verbatim. Copies of transcripts of proceedings may be purchased by the applicant from the reporter.

(e) All written statements, charts, tabulations, and similar data offered in evidence at the hearing shall, upon a showing satisfactory to the Presiding Officer of their authenticity, relevancy and materiality, be received in evidence and shall constitute a part of the record.

(f) Oral argument may be permitted in the discretion of the Presiding Officer and shall be reported as part of the record unless otherwise ordered by him.

§ 85.68 Findings, recommendations and decision.

(a) The Presiding Officer shall submit written findings and recommendations to the Secretary. Such findings and recommendations shall be based upon the substantial evidence of record.

(b) The decision will be rendered by the Secretary. A copy of the decision shall be provided to the parties and shall be available for public inspection at the Office of the Chief, Division of Air Pollution, Public Health Service.

Subpart—Test Procedure for Vehicle Exhaust Emissions (Gasoline Engines)

§ 85.70 Introduction.

The following procedure will be used in the testing program under section 206 of the Act to determine the conformity of new motor vehicles and new motor vehicle engines with the standards set forth in this part.

(a) The test consists of a prescribed sequence of vehicle operating conditions on a chassis dynamometer with continuous sampling of the exhaust gases through an analytical train. The test is applicable to vehicles equipped with catalytic or direct-flame afterburners, induction system modifications, or other systems or devices, or to uncontrolled vehicles. The test applies to all passenger cars and light trucks up to and including one-half ton or equivalent.

(b) The basic test is designed to determine hydrocarbon and carbon monoxide concentrations for an "average" trip in a metropolitan area of about 17 minutes from a cold start. The test consists of two parts: 4 seven-mode warmup cycles and 3 seven-mode hot cycles (5th cycle not read). The average concentrations for the warmup cycles and the hot cycles are combined to yield the reported values.

(c) It will be noted that this test procedure yields single values for hydrocarbon and carbon monoxide concentrations from a given vehicle for comparison with the standards. However, the finding that the vehicle or engine operates within the standards is not judged on the basis of a single vehicle or single engine. Performance is judged on the basis of emissions of groups of test vehicles.

§ 85.71 Fuel specifications.

(a) The following fuel specifications, or substantially equivalent specifications approved by the Surgeon General, will be used in emission testing. The type fuel recommended by the vehicle or engine manufacturer shall be used.

Item	Regular	Premium
Octane, Research	94–96	103.0 min.
TEL, ml/gal	2.5–3.25	3.0
Distillation Range, % Evap:		
10%	110–135° F.	105–140° F.
50%	200–235° F.	195–240° F.
90%	330–365° F.	300–360° F.
EP	415° F. max.	420° F. max.
Sulfur, % Wt. (Max.)	0.10	0.10
Phosphorous, % theory		0
RVP, lb	9.5 (max.)	8.0–9.0
Hydrocarbon Composition:		
Olefins, % Max	20	10
Aromatics, % Max	25	40
Saturates	Remainder	Remainder

(b) The following fuel specifications, or substantially equivalent specifications approved by the Surgeon General, will be used in mileage accumulation. The type fuel recommended by the vehicle or engine manufacturer shall be used.

Item	Regular	Premium
TEL, TML, ml/gal	2.0–3.0	2.0–3.0
Sulphur, % Wt	0.02–0.10	0.02–0.10
Phosphorus, % theory	Nil	0.10–0.20
Hydrocarbon composition:		
Olefins, % max	30	15
Aromatics, % max	40	40
Saturates	Remainder	Remainder

(c) The type fuel used under paragraphs (a) and (b) of this section shall be reported in test results submitted under § 85.61.

§ 85.72 Dynamometer operation cycle.

(a) The following seven-mode cycle will be followed in dynamometer operation tests:

Sequence No.	Mode	Acceleration mph/sec.	Time in mode seconds	Cumulative time seconds	Weighting factor
1	[1] Idle		20	20	0.042
2	(0–25)	2.2	11.5) 14	31.5	.244
3	(25–30)		2.5)	34	[2]
4	30		15	49	.118
5	30–15	−1.4	11	60	.062
6	15		15	75	.050
7	(15–30)	1.2	12.5) 29	87.5	.455
8	(30–50)	1.2	16.5)	104	[2]
9	50–20	−1.2	25	129	0.029
10	20–0	−2.5	8	137	[2]

[1] On first cycle only idle engine in neutral at 1,000 to 1,200 rpm for 40 seconds. All subsequent idle periods will be as specified: in gear, at normal speed, and for 20 seconds. See § 85.77.
[2] Data not read.

(b) The following equipment shall be used for dynamometer tests:

(1) Chassis Dynamometer—equipped with power absorption unit and flywheels.

(2) Fan having sufficient capacity to maintain engine cooling during sustained operation on dynamometer.

§ 85.73 Dynamometer procedure.

(a) The vehicle will be tested from a cold start. Four warmup cycles and 3 hot cycles make a complete test. (The fifth cycle is not read.)

(b) Special considerations:

(1) On rolls less than 20 inches in diameter, the rear tires shall be inflated to 45 p.s.i. pressure in order to prevent casing damage.

(2) The vehicle shall be nearly level when tested in order to prevent unusual fuel distribution from that normally observed.

(3) Test shall be made with hood up and fan directed at radiator. (Exception: air-cooled engines.) Alternate: hood down, proportional air blowing.

(4) Flywheels giving equivalent inertia as shown in the following table shall be used.

Loaded vehicle weight, lb.[1]	*Equivalent Inertia Wheels, lb.*
Up to 1750	1500
1751 to 2250	2000
2251 to 2750	2500
2751 to 3500	3000
(3251—3750	[2] 3500)
3501 to 4500	4000
(4251—4750	[2] 4500)
4501 to 6000	5000

[1] To obtain car or ½-ton truck loaded weights, add 400 pounds to the published shipping weight. If published weight is unknown, add 300 pounds to the actual vehicle weight to determine weight category.
[2] 500-pound increments may be optionally used if applied consistently.

(c) The power absorption unit shall be adjusted to produce road load at 50 m.p.h. To originally determine the horsepower setting on a particular dynamometer the following procedure shall be used:

(1) Select three vehicles at each of the following loaded weights: 1500, 3000, and 4000 lb.

(2) Determine intake manifold vacuum on each car at 50 m.p.h. on a level road (average of both directions, stabilized for a minimum of 15 sec.).

(3) Read the horsepower for each car at the determined intake manifold vacuum and 50 m.p.h. on the particular dynamometer.

(4) Average the three horsepowers measured for each weight class and use the appropriate average for setting dynamometer road load for all vehicles as follows:

Loaded vehicle weight, lb.	*Equivalent vehicle road load*
Less than 2250	1500
2250–3500	3000
Greater than 3500	4000

(d) Practice cycles shall be run to find the correct throttle action to allow completion of the accelerations in the specified time at the constant rates of acceleration specified. A manifold vacuum gauge or an acceleration meter may be used as driving aids. Preferably a tape recorded instruction playback or a pretraced speed vs. time recorder should be followed. Care should be taken to avoid throttle closures in the transition from acceleration to 30 cruise.

(e) The car speed (m.p.h.) as measured from the dynamometer rolls shall be used for all conditions.

§ 85.74 Three-speed manual transmissions.

(a) All test conditions except as noted shall be run in highest gear.

(b) Cars equipped with overdrive units shall be tested with overdrive locked out of operation.

(c) Idle: Idle shall be run with transmission in gear and with clutch disengaged (except first idle; see § 85.77).

(d) Cruise: The vehicle shall be driven at a constant throttle position to maintain the cruising speed. An engine tachometer and vacuum gauge may be used as driving aids.

(e) Acceleration: Modes shall be run at nearly constant acceleration with the shift speeds as indicated below (where possible; if not, cut into time of next mode). Shifting shall be accomplished rapidly to minimize closed-throttle time.

Mode	*Shift speed*
0–25 accel	Shift at 15 and 25.
15–30 accel	Use highest gear.

(f) Deceleration: The modes shall be run at closed throttle in high gear with clutch engaged, maintaining a constant deceleration rate by using the vehicle brakes. For those modes which decelerate to zero, the clutch should be depressed when speed drops below 15 m.p.h.

If the vehicle decelerates more rapidly than required with no braking, the decelerations should be made at closed throttle even though less than the specified time is required. Indicate the end of the (50–0 or 30–15) deceleration, continue at that speed until the specified time has elapsed, then proceed with the next sequence.

(g) Optional shift points: When recommended by the manufacturer in the owner's operating manual, second gear may be used in sequences 6 and 7 of § 85.72(a). If this option is utilized, it shall be reported in test results submitted under § 85.61 and a copy of the applicable owner's operating manual shall be submitted with such report.

§ 85.75 Four-speed manual transmissions.

(a) Use the same procedure as 3-speed manual transmissions with the following exceptions:

Mode	*Shift speed or gear used*
0–25 accel	1 and 2.
30 cruise	3d gear.
30–15 decel	3d gear.
15 cruise	3d gear.
15–30 accel	3d gear.
30–50 accel	3d to 4th gear at 40 m.p.h.
50–20 decel	4th gear.

(b) If transmission ratio in first gear exceeds 5.0, follow the procedure for three-speed manual transmission vehicles as if the first gear did not exist.

(c) If an acceleration cannot be made within the specified time, reduce the time in the next steady speed mode to the extent necessary to compensate for time lost.

(d) Optional shift points: When recommended by the manufacturer in the owner's operating manual, second gear may be used in sequences 6 and 7 of § 85.72(a). If this option is utilized, it shall be reported in test results submitted under § 85.61 and a copy of the applicable owner's operating manual shall be submitted with such report.

§ 85.76 Automatic transmissions.

(a) All test conditions should be run with the transmission in "Drive" (highest gear).

(b) Idle: Idle should be run with the transmission in "Drive" and the wheels braked (except first idle; see § 85.77).

(c) Cruise: The vehicle should be driven at constant throttle position to maintain specified speed in highest gear.

(d) Accelerations: Modes should be run at nearly constant acceleration allowing the transmission to shift automatically through the normal sequence of gears.

(e) Decelerations: These modes should be run at closed throttle, maintaining a constant deceleration by using the vehicle brakes. If the vehicle decelerates more rapidly than required, the test should be run as for Manual Transmission Vehicles (See § 85.74(f)).

§ 85.77 Engine starting.

(a) The engine is to be started according to the manufacturer's recommended starting procedure and run in the neutral position at about 1,100 r.p.m. (or maximum r.p.m. at which clutch remains disengaged if automatically operated) for a total of 40 seconds.

(b) Put the transmission in gear so that the first acceleration can be started at the end of 40 seconds. The emissions for the first idle are to be read the last 3 seconds in neutral. This initial idle replaces the idle in the first 7-mode cycle.

(c) To start manual choke vehicles, pull the choke out to ½ of its full manual travel. Immediately after the start, push the choke in until the idle speed is about 1,100 r.p.m. If the choke has no substantial effect on r.p.m., push the choke in to the ¼-out position. Near the end of the first 15-50 acceleration run, push choke in all the way.

(d) In all of these sequences, the operator may use more choke, more r.p.m., and decreased rate of acceleration, etc., in the first cycle, where necessary to keep the engine running.

§ 85.78 Sampling and analytical system.

(a) Schematic drawing: The following figure (Figure 1) is a schematic drawing of the exhaust gas sampling and analytical system.

(b) Equipment: The following equipment is used in the system:

Exhaust gas sampling line to coarse filter: Stainless steel tubing (0.18" ID).

Sampling lines to instruments: Stainless steel 0.18" ID with closely butted hydrocarbon resistant joints.

Filters:

(1-Coarse filter, glass wool in glass holder).

(2-Paper extraction thimble filters, single thickness, in glass holder).

Condenser—4–5' Coil 0.18" ID S.S. tubing in water bath. An ice bath may be used in condenser measuring low hydrocarbons. The water bath in condenser measuring high hydrocarbons shall be at room temperature (min. 60° F.).

Solenoid valves—⅛" bore.

Pumps, two: Capacity sufficient to meet test requirements.

Manometers, two.

Condensate traps, two.

Analyzers, four: Nondispersive infrared type. (A useful reference on exhaust gas content measurement has been issued by Automobile Manufacturers Association, AMA Engineering Notes 634, October 1963.)

2 Hydrocarbon analyzers (detectors sensitized with 50 mm n-hexane).

1 Carbon monoxide analyzer.

1 Carbon dioxide analyzer. (For best accuracy in 10–15% CO_2 range of usual operation, higher than usual detector pressure is preferred.)

Flowmeters, two—0–25 liters per minute capacity.

Recorders, two dual.

Valves, S.S., 3-way for calibrating gases.

Meter Relay, one 50 mv full scale.

The Surgeon General will, upon request by a manufacturer, furnish a list of the specific equipment used in Federal facilities for testing under the regulations in this part.

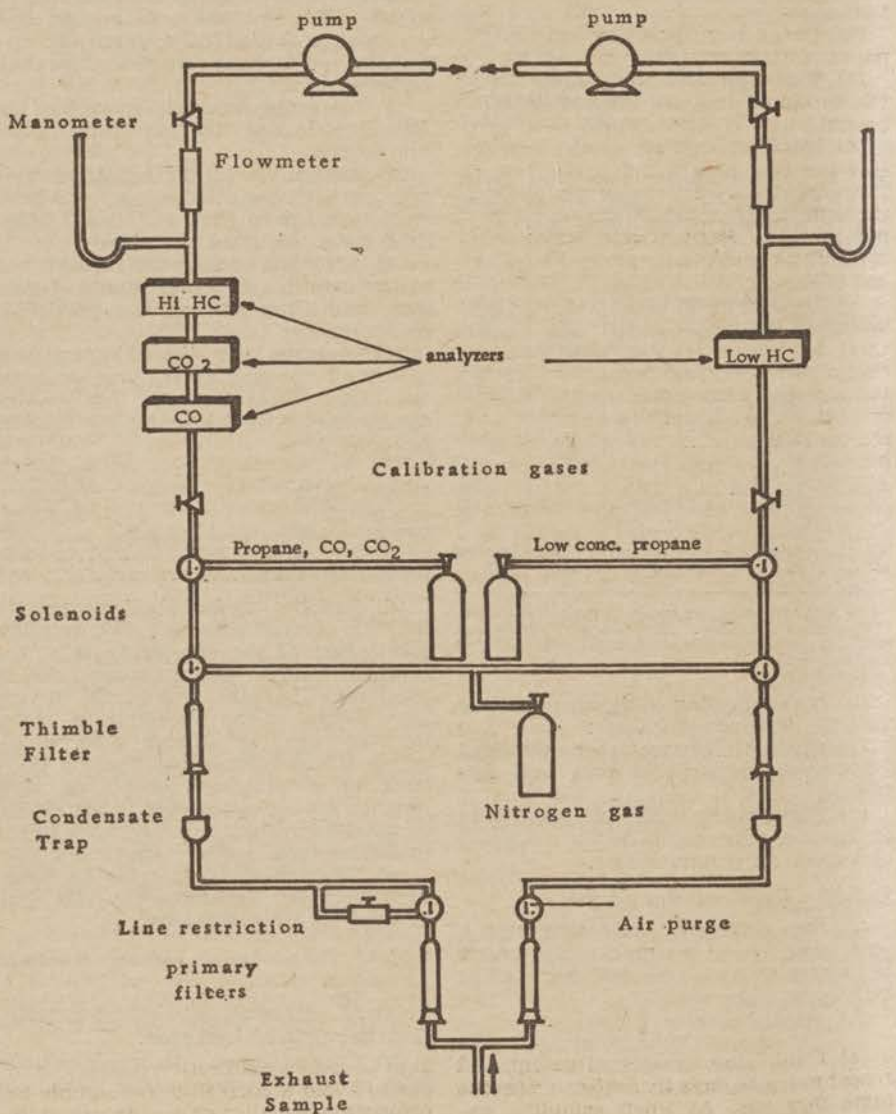
(c) Assembling equipment:

(1) The components are assembled as shown in Figure 1. There are two parallel sampling trains, one supplying exhaust to the low range hydrocarbon analyzer and the other to the carbon dioxide, carbon monoxide, and high range hydrocarbon analyzers. While the latter is shown connected in series, parallel flow is also acceptable. Each train has its own secondary filter and pump. These pumps are downstream from the analyzers to minimize "hang-up." Provision is also made for introducing nitrogen and calibrating gas into each train.

(2) The train containing the low range hydrocarbon analyzer is equipped with a solenoid valve to shut off the exhaust flow during decelerations and to allow purge air to enter the sampling train. The instrument operator should anticipate high deceleration hydrocarbons and trigger the valve manually. As a safeguard the meter relay is set to trigger the valve automatically at 1,750 to 2,000 ppm on the high range hydrocarbon analyzer.

Figure 1

FLOW DIAGRAM Typical Instrument Train



(3) Provision shall be made (not shown in Figure 1) for the following:

(i) Maintaining pressure constant at entrance to instruments, particularly when running tailpipe device inlets (e.g. backpressure regulation by controlled bleed off);

(ii) Maintaining constant flow rate through instruments (e.g. pressure drop regulator).

(d) The following points shall be carefully followed when assembling the equipment:

(1) Minimize length of all connecting lines, using stainless steel line and closely-butted hydrocarbon resistant joints.

(2) Locate instrumentation as close as possible to tailpipe.

(3) Check system for leaks.

(4) Ground all units electrically.

(e) Initial check of assembled equipment.

(1) Turn on power and warm up analyzers (minimum 2 hours). (As a matter of good practice, power is left on continuously; but, when instruments are not in use, chopper motor is turned off and should be turned on 30 min. before testing.)

(2) Check out all equipment according to manufacturer's specifications.

(3) Flow-through time for exhaust gas sampling line should not exceed 1 second.

(4) Turn on analyzer pumps and adjust the flow rate through the low HC instrument to 7 liters per minute and through the high HC instrument 3 liters per minute. Record manometer pressures while drawing air from the tailpipe end of sample line using analyzer pumps.

(5) Determine "hangup" in system as described in § 85.81.

(f) Preventive Maintenance. This includes cleaning sampling system, servicing pumps, filters, recorders, and analyzers. Servicing frequency depends on total operating time. (See discussion of hangup.)

§ 85.79 Information to be recorded on charts.

The following information shall be recorded with respect to each test:

(a) Test Number.

(b) System or device tested.

(c) Date and time of day.

(d) Instrument Operator.

(e) Driver.

(f) Vehicle: Make—Vehicle Identification Number—Year—Transmission type—Odometer reading—Engine displacement—Carburetor barrels—Idle rpm—Position of idle mixture screws.

(g) Analyzer Tuning—Gain—Detector number.

(h) Identify zero traces, steady-state traces, calibration traces, and start and finish of each test.

(i) Record sample cell pressure.

(j) Ambient temperature (i.e. air in front of radiator).

§ 85.80 Calibration and instrument checks.

(a) Calibrate following assembly, and repeat every 30 days thereafter. Use the same flow rate as when sampling exhaust. Adjust to the same pressure setting on the manometer as observed during sampling. Proceed as follows:

(1) Clean cells and tune analyzers.

(2) Zero on nitrogen. Check each cylinder of N_2 for contamination with hydrocarbons. Set the instrument gain to give the desired range. Normal operating ranges are as follows:

Low Range Hydrocarbon Analyzer.	0–1,750 ppm hexane.
High Range Hydrocarbon Analyzer.	0–10,000 ppm. hexane.
CO Analyzer	0–12% CO.
CO_2 Analyzer	0–16% CO_2.

(3) Calibrate with the following gases. The concentrations given indicate nominal concentrations and actual concentrations should be known to within ±2% of true value. Dry N_2 is used as the diluent.

Low range HC analyzer	High range HC analyzer	CO analyzer	CO_2 analyzer
		Percent	*Percent*
100 ppm hexane	1000 ppm hexane (1100 p.s.i.g. max. pressure) [1]	1	5
200 ppm hexane	2000 ppm hexane (500 p.s.i.g.) [1]	2	9
500 ppm hexane	5000 ppm hexane (300 p.s.i.g.) [1]	5	12
750 ppm hexane	7500 ppm hexane (200 p.s.i.g.) [1]	10	16
1000 ppm hexane	9000–10,000 ppm hexane (150 p.s.i.g.) [1]		
1750 ppm hexane			

[1] The above are the maximum suggested pressures to prevent cylinder wall adsorption errors, etc.

Minimum use temperature of the cylinders should be 70° F.

(4) Compare values with previous curves. Any significant change reflects some problem in the system. Locate and correct problem, and recalibrate. Use best judgment in selecting curve for data reduction.

(5) Check response of hydrocarbon analyzer to 100% CO_2. If response is greater than 0.5% full scale, refill filter cells with 100% CO_2 and recheck. Note any remaining response on chart. If response still exceeds 0.5%, replace detector.

(6) Check response of hydrocarbon analyzers to air saturated with water at ambient temperature. Record ambient temperature. If the low range instrument response exceeds 5% of full scale with saturated air at 75° F., replace the detector. If the high range response exceeds 0.5% of full scale, check detector on low range instrument, then reject if response exceeds 5% of full scale at 75° F.

(b) Daily instrument check: Allow a minimum of 2 hours warmup for infrared analyzers. (Power is normally left on continuously; but, when instruments are not in use, chopper motor is turned off.) The following should be done before each series of tests:

(1) Zero on clean nitrogen introduced at analyzer inlet. Obtain a stable zero on the amplifier meter and recorder. Recheck after test.

(2) Introduce normalizing gas and set gain to match calibration curve. In order to avoid a correction for sample cell pressure, normalize and calibrate at the same cell pressure determined in § 85.78 (e)(4). Normalizing or span gases: See § 85.80(a)(3) for allowable variation.

Low Range Hydrocarbon Analyzer.	1,500–1,700 ppm hexane or propane equivalent for the instrument.
High Range Hydrocarbon Analyzer.	5,000 ppm hexane or propane equivalent for the instrument.
CO Analyzer	10% CO in N_2.
CO_2 Analyzer	12 to 16% CO_2 in N_2.

If gain has shifted significantly, check tuning. If necessary then check calibration. Recheck after test. Show actual concentrations on chart.

(3) Check nitrogen zero, repeat (1) and (2) if required.

(4) Check flow rates and pressure as described in § 85.78(e) (3) and (4).

§ 85.81 Cold start test run.

(a) The car and device are allowed to stand long enough to reach ambient temperature (at least 12 hours). The vehicle is to be stored prior to the test in such a manner that precipitation (e.g., rain or dew) does not occur on the vehicle and the minimum ambient temperature in the vicinity of the engine during the soak period is 60° F. During the run the ambient temperature should be between 68° and 86° F.

(b) The following steps shall then be taken for each test. (Special procedures may be required for certain cars: for example, those equipped with dual exhaust systems. These problems must be handled on an individual basis, and a procedure agreed to by the Surgeon General established.)

(1) Place car on dynamometer without starting engine.

(2) Clean condensate traps and change filter thimbles.

(3) Purge entire sampling system by allowing air to enter at probe.

(4) Purge the instruments with nitrogen. Turn on chart drive and adjust the zero. Check span.

(5) Stop the nitrogen purge and switch the analyzers to the exhaust sampling train. Adjust each flow rate. Note and record the sample system pressures on chart.

(6) Insert the sampling line at least 2 feet into the tailpipe. If this is not possible, a tailpipe extension should be used. Break connection to train.

(7) With car hood up, start the cooling fan.

(8) Start the car. After the engine has run 20 seconds, connect sample line to train.

(9) Run 7 seven-mode cycles.

(10) Change glass wool in coarse filter during idle following cycle 2.

(11) Record manifold vacuum during 50 m.p.h. cruise.

(12) Record on the dynamometer data sheet the engine idle r.p.m.: In drive range for automatics, in neutral for manuals.

(13) Remove probe from exhaust and determine air response (hangup). As a guide, the hydrocarbon concentration should drop to 5% of scale in 10 seconds and 2–4% of scale in 2–3 minutes. If it does not, the test is questionable.

(14) Record nitrogen zero, and check span. If zero and span drift is in excess

of 3% of the span concentration during the run, the results are questionable.

§ 85.82 Chart reading.

The recorder response for measuring exhaust gas concentrations will always lag the engine's operation because of a variable exhaust system delay and a fixed sample system delay. Therefore, the concentrations for each mode will not be located on the charts at a point corresponding to the exact time of the mode. For each warmup cycle to be evaluated, proceed as follows:

(a) Determine whether the cycle was driven in accordance with the specified cycle timing by observing either chart pips, speed trace, manifold vacuum trace, or concentration traces. Deviation by more than 2 seconds from the specified time for each mode will make the data of questionable value.

(b) Time correlate the hydrocarbon, carbon monoxide, and carbon dioxide charts. Use all clues available to determine the location on the chart of concentrations corresponding to each mode. Use judgment in recognizing and compensating for trace abnormalities.

(c) Locate on each chart the last three (3) seconds before HC, CO and CO_2 concentration changes indicate the beginning of the 0–25 acceleration. From this last three (3) second period determine the integrated or time average concentration for the idle concentration.

(d) Mark off the 11.5 seconds following the point located in step c. Integrate or time average the concentrations in this interval for the 0–25 acceleration concentrations.

(e) Locate the last three (3) seconds before concentration changes indicate the beginning of the 30–15 deceleration. Integrate or time average the concentrations for the cruise 30 values.

(f) Locate chart scale reading (ordinate) where peak width equals eleven (11) seconds for 30–15 deceleration. Integrate or time average the concentrations between the intersections of this scale reading with the curve for the 30–15 deceleration values.

(g) Locate the last three (3) seconds before concentration changes associated with the beginning of the 15–30 acceleration and integrate or time average the concentrations for the cruise 15 value.

(h) From the initiation of the 15–30 (50) acceleration located in step g, measure 12.5 seconds forward in time and evaluate the integrated or time average concentration for the 15–30 value.

(i) Locate chart scale reading where peak width equals 25 seconds for the 50–20 deceleration mode. Integrate or time average the concentrations between the intersections of this scale reading with the curve for the 50–20 deceleration values. The "time average concentrations" equal the sum of the concentration values for each second of time divided by the number of seconds. The concentration at any second is determined by:

(1) Reading recorder deflection.

(2) Subtracting water plus CO_2 response.

(3) Referring to the calibration curve to determine concentration. (A table corresponding to the calibration curve is a useful aid.)

Integration of the area under the curves has been found to be an acceptable approximation of the more rigorous "time average concentration" method.

(j) Record data for the first four warmup cycles and the sixth and seventh hot cycles.

NOTE: The time correlation of the various chart traces is emphasized. The peak spanning method of locating the deceleration modes is appropriate only for the hydrocarbon traces. Corresponding CO and CO_2 values should be located by time correlation.

§ 85.83 Calculations.

The final reported tests results are derived through the following steps:

(a) Exhaust gas concentrations shall be adjusted to a dry exhaust volume containing 15 percent by volume of carbon dioxide plus carbon monoxide.

(b) Determine composite hydrocarbon and carbon monoxide concentrations for the first four seven-mode warmup cycles.

(c) Determine composite hydrocarbon and carbon monoxide concentrations for the sixth and seventh (hot) cycles.

(d) Combine (b) and (c) according to the formula 0.35(b) and 0.65(c).

Example: The following example illustrates the calculation of reported values from raw data. The raw concentrations used in the warmup portion of the example represent the average mode concentrations for the first four cycles.

Since hydrocarbons, carbon monoxide, and carbon dioxide are all measured with the same moisture content, no moisture correction is required to convert the results to a dry basis. The correction factor

$$\frac{15}{CO+CO_2}$$

is applied to the measured concentrations of hydrocarbons and carbon monoxide for each load mode and the idle mode. For the deceleration modes the measured concentrations are multiplied by

$$\frac{15}{6HC+CO+CO_2}$$

(HC expressed as % hexane).[1] This modification is necessary to compensate for the large percentage of carbon atoms which remain in organic form during these modes. (Special treatment will be necessary for cases involving fuel shutoff during deceleration in accordance with a substantially equivalent procedure agreed to by the Surgeon General.)

EXAMPLE: WARMUP CALCULATION

Mode	Average as measured			Correction factor	Corrected		Weighing factor	Weighed	
	HC	CO	CO_2		HC	CO		HC	CO
Idle	650	5.2	10.1	$\frac{15}{15.3}$	640	5.1	0.042	27	0.22
0–25	430	2.0	12.1	$\frac{15}{14.1}$	460	2.1	.244	112	.51
30	390	2.5	12.1	$\frac{15}{14.6}$	400	2.6	.118	47	.31
30–15	2,600	4.6	8.6	[1] $\frac{15}{14.8}$	2,600	4.7	.062	161	.28
15	470	3.7	11.4	$\frac{15}{15.1}$	470	3.7	.050	23	.18
15–30	350	1.3	12.5	$\frac{15}{13.8}$	380	1.4	.455	173	.64
50–20	4,600	3.9	6.3	[2] $\frac{15}{13.0}$	5,300	4.5	.029	154	.13
Sum								697	2.27

[1] $\frac{15}{6X0.26+4.6+8.6}$.

[2] $\frac{15}{6X0.46+3.9+6.3}$.

By a similar procedure the hot portion of the test yields composite values of 680 and 2.21. The reported overall composite values are:

0.35 (697) + 0.65 (680) = 686 ppm HC.
0.35 (2.27) + 0.65 (2.21) = 2.24% CO.

§ 85.84 Test vehicles.

(a) *Emission data vehicles.* (1) Four vehicles of each engine displacement will be run for emission data. Where an engine displacement projected sales volume represents less than one half of one percent of the last full model year's total United States sales of all vehicles subject to this part, then a total of two vehicles would be required for that displacement. Each manufacturer, however, must accumulate data on a minimum of four vehicles to qualify for certification.

(2) Vehicles shall be selected so as to be equipped as nearly as possible with transmission and carburetors in proportion to the manufacturer's percentages thereof sold in the United States during latest full model year for which sales statistics are available.

(3) An engine and transmission combination need not be tested in more than

[1] The average concentration for each mode for the first four warmup cycles is determined, and then the CO plus CO_2 correction factor is applied to this average for each mode.

one car model except that where the weight, power train, or other characteristics of any car model may reasonably be expected to increase emissions, the engine and transmission combination shall also be tested in such model.

(b) *Durability data vehicles.* The durability data vehicles shall comprise a minimum of 4 and a maximum of 10, the number being determined by selection of those combinations of engine displacement and transmission options (automatic and manual) which represent at least 70 percent of the manufacturer's total sales in the United States during the latest full model year for which sales statistics are available, selected in order of sales volume: *Provided, however,* That when such manufacturer's total latest full model year sales in the United States represent less than 10 percent of all domestic sales of vehicles subject to this part, the number of durability data vehicles will be determined by the number of engine displacement and transmission options comprising at least 50 percent of domestic sales by the manufacturer during such model year, but in no event shall there be less than 4 vehicles unless a lesser number is agreed to by the Surgeon General as meeting the objectives of this procedure.

§ 85.85 Test conditions.

(a) Maintenance: (1) A complete record of all pertinent maintenance performed on the test vehicles will be supplied with the application for certification.

(2) Maintenance on the durability vehicles will be performed only as a result of part failure or gross vehicle malfunction with the following exceptions:

(i) Only one major engine tuneup may be performed (at approximately 25,000 miles of schedule driving): *Provided,* That 3 such tuneups may be performed for vehicles with an engine displacement of 200 cubic inches or less, at approximately 12,500-mile intervals of schedule driving. A major engine tuneup shall consist of the following: Replace spark plugs; inspect ignition wiring and distributor cap and replace as required; replace distributor breaker points and condenser; lubricate distributor cam; check distributor advance and breaker point dwell angle and adjust as required; check, and tighten if necessary, intake manifold bolt torque; adjust tappets if required; check automatic choke for free operation and adjust as required; adjust carburetor idle speed and mixture; check for free operation of exhaust heat control valve and adjust as required; adjust belt tension.

(ii) Spark plugs may be changed if misfire is detected at 35 m.p.h. or below during the 0–70 m.p.h. WOT acceleration in the modified AMA driving schedule. (See § 85.86.)

(iii) Normal vehicle lubrication services (engine and transmission oil change and oil, fuel, and air filter servicing) will be allowed at recommended mileage intervals.

(iv) Crankcase emission control system will be serviced at 12,000 mile intervals.

(v) Adjust choke or idle settings only if there is a problem of stalling at stops, or at permitted major tuneups.

(b) Complete cycle exhaust emission tests (see §§ 85.71 through 85.83) will be run from a cold start before and after any vehicle maintenance which can be expected to affect emissions.

§ 85.86 Mileage accumulation and emission measurements.

The route for mileage accumulation should be representative of urban driving with an average speed of 32 m.p.h. or less. The AMA city route (Appendix A) or modification thereof approved by the Surgeon General will meet this requirement. An example of an approved modification is shown in Appendix B.

(a) *Emission data vehicles.* Each vehicle will be driven a minimum of 4,000 miles with the exhaust control system installed. The results of all exhaust emission tests conducted after 4,000 miles will be supplied with the application for certification to establish the low mileage emission level of each vehicle.

(b) *Durability data vehicles.* Each vehicle will be driven 50,000 miles. Exhaust emission measurements from a cold start will be made at least every 4,000 miles.

(c) *Fuel.* Fuel for mileage accumulation and emission testing shall meet the applicable requirements of § 85.71.

§ 85.87 Compliance with emission standards.

(a) The emission standards in the regulations in this part apply to the lifetime emissions of equipped vehicles in public use. Prior to certification, of course, lifetime emissions can only be obtained by projection of test data to lifetime normal service in the hands of the public. Normal service in an urban area or its equivalent for 100,000 miles is taken as the basis for "lifetime emissions."

(b) Data available indicates that, after the first few thousand miles (where cylinder deposits, etc., are building up), emission control deterioration for a group of cars is linear with mileage. This would make the emissions corresponding to around 50,000 miles in normal service the average emission of vehicles over their lifetime. (With some cars, due to exhaust valve life, or other factors, emission deterioration rate could conceivably be greater in the second 50,000 miles. Unless normal service data with particular equipped vehicles after long service indicates to the contrary, however, it will be assumed that 50,000 miles of normal service is the proper average for the whole 0–100,000 period.)

(c) The basic procedure for determining compliance with emission standards of systems or devices, installed on or incorporated in vehicles or engines, is as follows:

(1) Emission deterioration factors will be determined from the emission results of the durability data vehicles.

(i) All emission results for each vehicle will be averaged for the following mileage intervals: 4000–12,000; 12,000–24,000; 24,000–36,000; 36,000–50,000.

(ii) Emission results for all durability test vehicles will be averaged together for these same mileage intervals, each vehicle to get equal weighting.

(iii) The best fit straight line will be placed through the averaged data.

(iv) The deterioration factor will be calculated as follows:

$$\text{factor} = \frac{\text{emissions extrapolated to 50,000 miles}}{\text{emissions extrapolated to 4,000 miles}}$$

(2) The emission test results from the emission data vehicles for each engine displacement will be averaged together with equal weighting to each test vehicle.

(3) The emissions to compare with the standards will be the emissions of paragraph 2 multiplied by the factors of paragraph 1.

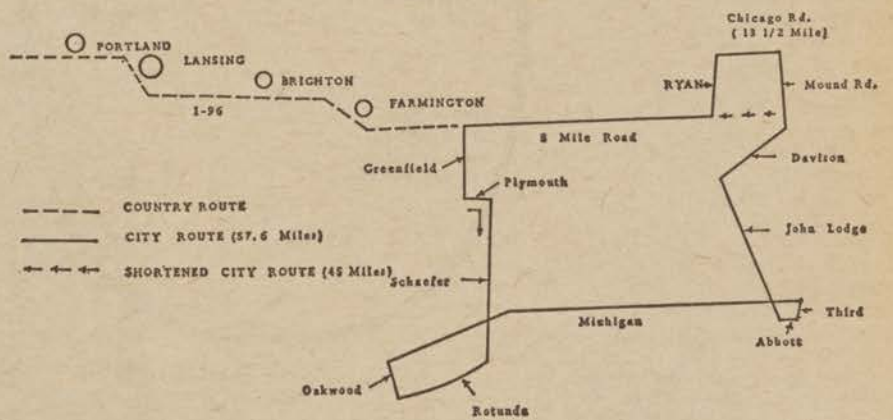
Dated: March 25, 1966.

[SEAL] WILBUR J. COHEN,
Acting Secretary.

APPENDIX A

AMA TEST ROUTE—DETROIT, MICHIGAN, AND VICINITY

(Average Speed 32 m.p.h.)



NOTE:

1. Observe all speed limits.
2. Drive at the speed limit whenever possible.

APPENDIX B

MODIFIED AMA CITY DRIVING SCHEDULE

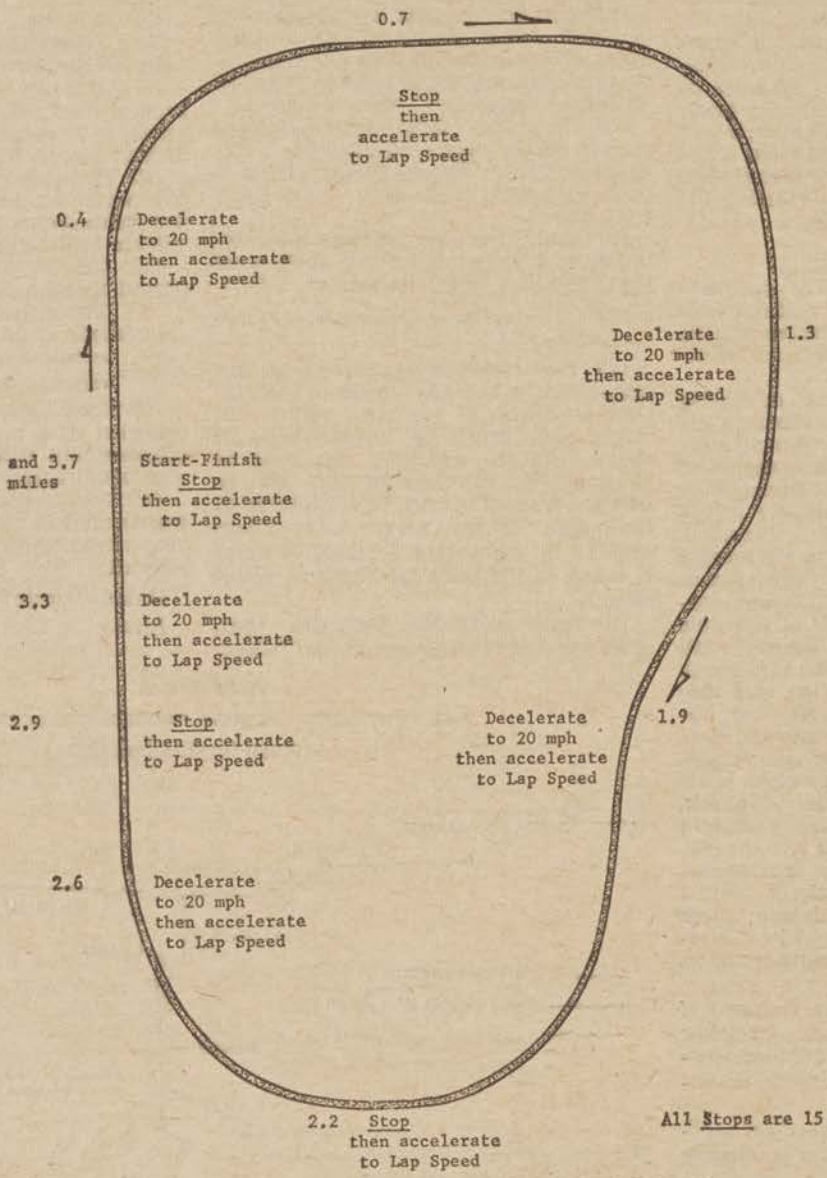
The schedule consists basically of 11 laps of 3.7 mile course. The basic vehicle speed for each lap is listed below:

Lap	*Speed-m.p.h.*
1	40
2	30
3	40
4	40
5	35
6	30
7	35
8	45
9	35
10	55
11	70

During each of the first nine laps there are 4 stops with 15 second idle. Normal accelerations and decelerations are used. In addition, there are 5 light decelerations each lap from the base speed to 20 m.p.h. followed by light accelerations to the base speed.

The 10th lap is run at a constant speed of 55 m.p.h.

The 11th lap is begun with a wide open throttle acceleration from stop to 70 m.p.h. A normal deceleration to idle followed by a second wide open throttle acceleration occurs at the mid-point of the lap.



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PART III

Department of Health, Education, and Welfare

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Public Health Service

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Grants for Solid Waste Disposal Projects

Title 42—PUBLIC HEALTH

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

PART 59—GRANTS FOR SOLID WASTE DISPOSAL PROJECTS

Statement of considerations. Notice of proposed rule making, public rule making procedures and postponement of effective date have been omitted in the issuance of the following Part 59 which relates solely to grants for studies, investigations, demonstrations, surveys, and planning for solid waste disposal. These regulations shall become effective on the date of publication in the FEDERAL REGISTER.

Taking into consideration the purposes of the Solid Waste Disposal Act (79 Stat. 997), the Secretary has determined that such purposes will be achieved in a more effective and expeditious manner if grants for research, demonstrations, training, and other activities authorized by section 204 of the Act are limited to public or private nonprofit agencies or institutions. The following regulations limit eligibility for such grants accordingly.

A new Part 59 is added as follows:

Sec.

AUTHORITY: The provisions of this Part 59 issued under Revised Stat. § 161, 5 U.S.C. 22, and under sec 204 and sec. 206 of Title II of P.L. 89–272, 79 Stat. 998–999, 42 U.S.C. 3253, 3255.

§ 59.1 Applicability.

The provisions of this part apply only to grants for studies, investigations, and demonstrations as authorized by section 204 of the Act, and surveys and planning as authorized by section 206 of the Act.

§ 59.2 Definitions.

As used in this part, all terms not defined herein shall have the meaning given them in the Act.

(a) "Act" means the Solid Waste Disposal Act (P.L. 89–272, 79 Stat. 998, 42 U.S.C. 3253).

(b) "Surgeon General" means the Surgeon General of the Public Health Service.

(c) "Applicant" means any public or private nonprofit agency or institution which files an application for a grant under section 204 of the Act; and any State, or any interstate agency, which files an application for a grant under section 206 of the Act.

(d) "Project" means a proposed undertaking: (1) Under section 204 of the Act (i) to study and investigate solid-waste disposal practices; or (ii) to demonstrate new and improved methods of solid waste disposal; or (2) under section 206 of the Act, to survey and plan solid-waste disposal practices within the jurisdiction of a State or of an interstate agency.

(e) "Project period" means the period of time which the Surgeon General finds is reasonably required to carry out a project meriting support by grants under section 204 or section 206 of the Act.

(f) "Region" means (1) a standard metropolitan statistical area as defined by the Bureau of the Budget except as may be determined by the Surgeon General as not being appropriate for the purpose of the grant; or (2) any area that forms an economic and socially related region; taking into consideration such factors as present and future population trends and patterns of urban growth; location of transportation facilities, and systems; and distribution of industrial, commercial, residential, governmental, institutional, and other activities; which in the opinion of the Surgeon General is appropriate for purposes of the grant.

(g) "Municipality" means a city, town, borough, county, parish, district, or other public body created by or pursuant to State law.

(h) "Demonstration" means a pilot or full-scale activity for demonstrating the feasibility or application of a new or improved solid-waste disposal procedure, process, or system.

§ 59.3 Funds available for grants.

(a) As soon as practicable after funds appropriated for the purposes of sections 204 and 206 of the Act become available in any Federal fiscal year, the Surgeon General shall determine, and may thereafter redetermine, the amount of funds which will be available during such fiscal year for grants for studies and investigations and for demonstrations under section 204 of the Act and for grants for surveys and planning under section 206 of the Act.

(b) The Surgeon General may, from time to time and for such periods of time as he may prescribe, reserve a portion or portions of the funds so determined for grants to categories of projects.

§ 59.4 Application for grants.

(a) An application for a grant shall be submitted on such forms and in such manner as the Surgeon General may prescribe.

(b) The application shall be executed by an individual authorized to act for the applicant and to assume for the applicant the obligations imposed by the requirements and conditions of any grant, including the regulations in this part.

(c) In addition to any other pertinent information which the Surgeon General may require, each applicant shall submit as part of the application a description of the project in sufficient detail to indicate the nature, duration, purpose, justification, and proposed method of conduct of the project. The description shall, as applicable, describe and indicate the possession of, or set forth a schedule for obtaining, suitable personnel, equipment, facilities, and other necessary resources (including non-Federal funds) for the conduct of the project.

§ 59.5 Grant limitations.

Grants under this part shall be subject to the following limitations:

(a) No grant shall be made with respect to any costs which are not incurred within the approved project period.

(b) No grant shall be made under section 204 of the Act for any project in an amount exceeding two-thirds of the estimated necessary costs of the project, excluding any costs for the construction of facilities, as determined by the Surgeon General, for each of the applicant's fiscal years during the project period for which the grant is made.

(c) No grant or part thereof in support of the cost of construction of any facility shall exceed two-thirds of such cost.

(d) No grant shall be made until the applicant has given assurance satisfactory to the Surgeon General as to the availability of non-Federal funds for the cost of the project and for the other activities of the applicant's solid-waste disposal program not included in the project.

(e) Not more than 12½ percent of the grant funds available pursuant to § 59.3 (a) for demonstrations and studies and investigations under section 204 of the Act, and surveys and planning under section 206 of the Act, respectively, shall be granted to applicants in any one State. For the purposes of this paragraph, grants to an interstate agency will be considered to be to the States involved in proportion to the amounts of non-Federal funds expended for the project by the participating States or by the participating municipalities located in the respective States.

§ 59.6 Grant conditions.

(a) In addition to any other requirements imposed by or pursuant to those regulations, each grant awarded pursuant to this part shall be subject to the following conditions:

(1) Any funds granted pursuant to this part shall be expended solely for carrying out the approved project.

(2) The grantee shall submit to the Surgeon General for review and prior approval changes in the project that substantially alter the scope or purpose of the project or will result in an increase

in cost in excess of the estimated cost approved in the award.

(3) Any grant award pursuant to this part shall be subject to the regulations of the Department of Health, Education, and Welfare as set forth in Title 45 CFR, Parts 6 and 8 as amended relating to inventions and patents and shall comply with the requirements of section 204(c). Such requirements shall apply to any activity for which grant funds are in fact used whether within the scope of the project as approved or otherwise. Appropriate measures shall be taken by the grantee and by the Surgeon General to assure that no contracts, assignments, or other arrangements inconsistent with the grant obligation are continued or entered into and that all personnel involved in the supported activity are aware of and comply with such obligation. Laboratory notes, related technical data and information pertaining to inventions or discoveries shall be maintained for such periods, and filed with or otherwise made available to the Surgeon General or those he may designate at such times and in such manner, as he may determine necessary to carry out such requirements.

(4) Any grant for a project which involves a Federally assisted construction contract, as defined in Executive Order 11246, September 24, 1965 (30 F.R. 12319), shall be subject to the condition that the grantee shall comply with the requirements of said Executive Order and with applicable rules, regulations, and procedures prescribed pursuant thereto.

(5) No grant for a project which involves construction shall be made unless the Surgeon General finds that the application contains or is supported by reasonable assurance that all laborers and mechanics employed by contractors or subcontractors on projects of the type covered by the Davis-Bacon Act, as amended (40 U.S.C. 276a to 276a–5) will be paid wages at rates not less than those prevailing on similar work in the locality as determined by the Secretary of Labor in accordance with that Act.

(6) The grantee shall provide for and maintain such accounting, budgetary, and other fiscal methods and procedures as are necessary for the proper and efficient administration of the project. The fiscal records shall be so designed to show currently the amount and disposition by the grantee of Federal funds received, the total cost of the project in connection with which such funds were provided, the amount of that portion of the cost of the project supplied by non-Federal sources, the expenditures for the solid-waste disposal program of the grantee not included in the project, and such other records as will facilitate an effective audit. Such records and any other books, documents or papers of the grantee pertinent to the grant received under sections 204 and 206 of the Act shall be accessible for purposes of audit by representatives of the Surgeon General and of the Comptroller General of the United States and shall be maintained until the grantee is notified in writing that the final audit has been completed.

(7) The grantee shall make such reports in such form and containing such information as the Surgeon General may from time to time require to carry out his functions.

(8) The grantee will permit the Surgeon General or his authorized agents, and other persons to have access to any facility constructed as part of a project, and to records pertaining to the operation of such facility at any reasonable time following the completion of construction of such facility.

(b) Attention is called to the requirements of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; P.L. 88–352) which provides that no person in the United States shall on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance (section 601), and to the implementing regulation issued by the Secretary of Health, Education, and Welfare with the approval of the President (45 CFR Part 80).

§ 59.7 Approval of projects; Federal financial aid; criteria.

(a) In determining the desirability, extent of funding, and the priority of a project, the Surgeon General will take into consideration the protection of the public health, the feasibility of the project in the light of the resources to be made available, the necessity for the project, the estimated cost of the project, the probable accomplishment of the project in the light of the project plan, the applicant's expenditures of non-Federal funds for solid-waste disposal programs and activities during the fiscal year immediately preceding the beginning of the project with respect to which a grant is requested, and the applicant's proposed expenditures for solid-waste disposal programs and activities (exclusive of its expenditures for approved project) during each fiscal year of the project period, and its relationship to other elements of the solid-waste disposal program of the applicant.

(b) With respect to any project approved for Federal financial aid, the Surgeon General shall determine the project period during which the project may be supported.

§ 59.8 Grant awards.

(a) Within the limits of funds available for such purposes, the Surgeon General shall make grant awards, in such amount as he may determine (subject to the provisions of § 59.5) to applicants whose projects have been approved for Federal financial aid under § 59.7.

(b) A grant award shall be made by the Surgeon General for either the project period or for such lesser period as he may prescribe in making the award.

(c) Neither the approval of any project nor a grant award shall commit or obligate the United States in any way to make any additional, supplemental or continuation award with respect to any approved project or portion thereof.

§ 59.9 Supplemental and continuation grants.

The Surgeon General may from time to time within the project period, on the basis of an application therefor, make additional grant awards with respect to any approved project where he finds on the basis of such progress, fiscal or other reports as he may require either that (a) the amount of any prior award was less than the amount necessary to carry out the approved project within the period with respect to which the prior award was made (a supplemental grant) or (b) the progress made within the period with respect to which any prior awards were made justifies support for an additional specified portion of the project period (a continuation grant).

§ 59.10 Payments.

(a) (1) Payments with respect to an approved project shall be made periodically, either in advance or by way of reimbursement, as the Surgeon General may determine, based on the estimated requirements or actual expenditures, respectively, for such period. Such payment shall be increased or decreased by the amount that prior payments are less than or exceed the Federal share of the costs of the approved project.

(2) Supplemental payments in any period may be certified by the Surgeon General upon submission of an application therefor accompanied by a satisfactory justification.

(3) No payment shall be made for any period so long as the applicant fails to comply substantially, as determined by the Surgeon General, with any condition specified in § 59.6 or any other requirement or condition imposed by or pursuant to these regulations, unless the Surgeon General finds that the payment of any amount otherwise payable, or any portion thereof, will be consistent with the purposes of sections 204 or 206 of the Act and the applicant has undertaken to comply with such requirement or condition.

§ 59.11 Other conditions.

The Surgeon General may with respect to any grant award impose additional conditions prior to or at the time of the award when in his judgment such conditions are necessary to carry out the purposes of section 204 or 206 of the Act.

§ 59.12 Termination of grant award.

(a) Any grant award may be terminated by the Surgeon General in whole or in part at any time within the project period, after affording the grantee reasonable notice and opportunity for a hearing, whenever the Surgeon General finds that in his judgment the grantee has failed in a substantial respect to comply with the condition of the grant or the requirements and conditions of this part, or both.

(b) Upon termination pursuant to paragraph (a) of this section, the grantee shall render an accounting and final statement as provided in this part. The Surgeon General may allow credit for the amount required to settle at minimum costs any noncancellable obli-

gations properly incurred by the grantee prior to receipt of notice of termination, if he finds that the grantee had good cause for the failure.

§ 59.13 Termination date; final accounting.

In addition to such other accounting as the Surgeon General may require, the grantee shall render with respect to each approved project a full account as provided herein, as of the termination date which shall be either (a) the end of the project period, or (b) the date of any termination of grant support as provided in § 59.12, whichever occurs first.

§ 59.14 Accounting for grant payments.

(a) With respect to each approved project, the grantee shall account for the total of all amounts paid under § 59.10 by presenting or otherwise making available vouchers or other evidence satisfactory to the Surgeon General of actual expenditures for the project.

(b) Total grant expenditures shall not exceed two-thirds of the acceptable actual costs of the approved project with respect to which the grant is made as evidenced in the final accounting.

§ 59.15 Accounting for equipment, materials or supplies.

Expenditures of grant funds for movable or fixed equipment, materials or supplies, termed in this section "materials," may be charged to grant funds only to the extent such materials are required for the conduct of the approved project during the period for which Federal financial support is provided. Any materials on hand on the termination date of the project (excluding expendable supplies within such limitations as the Surgeon General may prescribe) shall be accounted for by one or a combination of the following methods:

(a) Materials may be used by the grantee, without adjustment of accounts, for purposes within the grantee's solid-waste disposal program and no other accounting for such materials shall be required: *Provided, however,* (1) That during such period of use no charge for depreciation, amortization or for other use of the materials shall be made against any existing or future Federal grant or contract, and (2) if within the period of their useful life the materials are transferred by sale or otherwise for use outside the scope of the solid-waste disposal program, the proportionate fair market value at the time of transfer shall be payable to the United States.

(b) The materials may be sold by the grantee and the proportion of net proceeds of sale equal to the proportion of Federal participation in the cost of the materials paid to the United States, or they may be used or disposed of in any manner by the grantee by paying to the United States such proportion of their fair market value on the termination date. To the extent materials purchased from grant funds have been used for credit or "trade-in" on the purchase of new materials, the accounting obligation shall apply to the same extent to such new materials.

§ 59.16 Final settlement.

There shall be payable to the United States as final settlement with respect to each approved project the total sum of any amount not accounted for pursuant to § 59.14 and of any amounts payable to the United States as provided in § 59.15. Such total sum shall constitute a debt owed by the grantee to the United States and if not paid to the United States shall be recovered from the grantee or its successors by setoff or other action as provided by law.

§ 59.17 Studies and investigations—Municipal and regional.

Grants for the support of studies and investigations of municipal and regional solid-waste disposal problems, practices and programs as authorized by section 204 of the Act shall, in addition to any other requirements of this part, be subject to the following limitations:

(a) No grant shall be made unless in the judgment of the Surgeon General the applicant is legally responsible or is under existing law authorized or empowered upon compliance with legal requirements to assume responsibility for the provision of solid-waste disposal services through the geographic area covered by the proposed project, or if the applicant is authorized to perform such studies and investigations for any such municipalities.

(b) No grant shall be made unless the applicant gives assurance satisfactory to the Surgeon General that the proposed project will be coordinated with any statewide plans and programs relating to solid waste disposal.

§ 59.18 Determining the desirability of study and investigation projects.

In determining the desirability of projects for municipal and regional studies and investigations as authorized by section 204 of the Act the Surgeon General shall in addition to factors mentioned in § 59.7 give consideration to the following:

(a) The regional scope of the project;

(b) The likelihood that the project will lead to a demonstration of new and improved solid-waste disposal methods, devices or techniques;

(c) The relation of the estimated cost of the project to the necessity for and the benefits to be derived from the project.

§ 59.19 Studies and investigations of national value.

Grants for the support of studies or investigations of particular solid wastes, solid-waste disposal problems, practices and techniques as authorized by section 204 of the Act shall, in addition to any other requirements of this part, be subject to the following limitation; no grant shall be made unless the applicant gives assurance satisfactory to the Surgeon General that the findings of the proposed studies and investigations would be of significant national value in solid-waste disposal practices or programs.

§ 59.20 Demonstrations.

Grants for the support of demonstrations of new and improved solid-waste disposal methods, devices and techniques as authorized by section 204 of the Act shall, in addition to any other requirements of this part, be subject to the following limitations:

(a) No grant shall be made unless the applicant gives assurance satisfactory to the Surgeon General that open dumping or open burning of solid wastes is not authorized or is prohibited by law within the jurisdiction in which applicant proposes to conduct the demonstration; except that if such assurance cannot be given, the applicant:

(1) If a unit of Government responsible for enforcement of laws and regulations relating to solid-waste disposal practices, sets forth a schedule acceptable to the Surgeon General for the elimination of open dumping or open burning within its jurisdiction, or

(2) If not a unit of Government responsible for enforcing laws and regulations relating to solid-waste disposal practices, submits such a schedule officially adopted by the responsible unit of Government.

(b) No grant shall be made for any project which includes the construction of any facility unless the applicant has made provision satisfactory to the Surgeon General for assuring proper and efficient operation and maintenance of the facility after completion of the construction thereof.

§ 59.21 Determining the desirability of demonstration projects.

In determining the desirability of projects for demonstrations of new and improved solid-waste disposal methods, devices and techniques as authorized by section 204 of the Act, the Surgeon General shall in addition to factors mentioned in § 59.7 give consideration to the following:

(a) The relation of the estimated cost of the project to the necessity for and the benefits to be derived from the project;

(b) The responsibility of the applicant for solid-waste disposal;

(c) The potential for general application of the methods, devices, or techniques to be demonstrated.

§ 59.22 State and interstate planning.

Grants in support of State or interstate surveys and planning of solid-waste disposal practices and problems as authorized by section 206 of the Act shall, in addition to any other requirement of this part, be subject to the following limitations:

(a) No grant shall be made for any project in an amount exceeding one-half of the estimated necessary costs of the project, as determined by the Surgeon General, for each of the applicant's fiscal years during the project period for which the grant is made.

(b) No grant shall be made for any project unless the application sets forth plans for the expenditure of such grant, which assure, to the satisfaction of the Surgeon General, that the project as

planned will carry out the purposes of section 206 of the Act.

(c) No grant shall be made for any project unless the application provides for the submission of a final report of the activities of the State or interstate agency in carrying out the purposes of section 206 of the Act through the project and through such agency's other solid-waste disposal activities; and unless the application provides for the submission of such other reports, in such form and containing such information, as the Surgeon General may from time to time require; and unless such application provides for keeping such records and affording such access thereto as the Surgeon General may find necessary to assure the correctness and verification of such reports.

(d) No grant shall be made for any project unless the applicant gives assurance satisfactory to the Surgeon General that any survey and planning project is directed toward the production of a comprehensive solid-waste disposal plan including agricultural, commercial, industrial, and domestic solid-waste disposal for the entire geographic area of the State, or of the interstate jurisdiction.

§ 59.23 Single State agency.

Applications for grants for surveys and planning under section 206 of the Act must designate a single State agency (which may be an interdepartmental agency) or, in the case of an interstate agency, such interstate agency, as the sole agency for carrying out the purposes of section 206 of the Act.

§ 59.24 Coordination with planning.

No grant for surveys and planning under section 206 of the Act shall be made unless the applicant gives assurance satisfactory to the Surgeon General:

(a) That in the conduct of the project the applicant shall give consideration to, coordinate the project with, and consult with State agencies which have responsibility for any aspect of planning essential to statewide planning, and in the case of an interstate agency, such agency's jurisdiction-wide planning, for proper and effective solid-waste disposal consistent with the protection of the public health, including such factors as:

(1) population growth,

(2) urban and metropolitan development,

(3) land-use planning,

(4) water pollution control,

(5) air pollution control, and

(6) the feasibility of regional solid-waste disposal programs:

(b) That in the conduct of the survey the applicant shall give consideration to, and coordinate the project with other related State, interstate, regional and local planning activities, including those financed in whole or in part with funds pursuant to section 701 of the Housing Act of 1954 (40 U.S.C. 461).

Dated: March 25, 1966.

[SEAL] WILBUR J. COHEN,
Acting Secretary.

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