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Title 42—PUBLIC HEALTH

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

SUBCHAPTER B—PERSONNEL

PART 22—PERSONNEL OTHER THAN COMMISSIONED OFFICERS

Leave Without Pay While on Detail

Part 22 of Subchapter B of Chapter 1 of Title 42, Code of Federal Regulations, is amended in order to add at the end thereof a new section under the heading "Leave without pay while on detail", which provides for a civilian officer or employee detailed to a State or nonprofit institution to be placed on leave without pay for the period of the detail, to read as follows:

§ 22.5 Leave without pay while on detail.

The Secretary or his delegatee may, pursuant to section 214(d) of the Public Health Service Act, 42 U.S.C. 215(d), and with the consent of the officer or employee concerned, arrange, through agreements or otherwise, for a civilian officer or employee of the Public Health Service to be placed on leave without pay for the period of a detail to a State, a subdivision thereof, or a private nonprofit institution and be paid by the non-Federal organization. Such an arrangement may be for a period of not to exceed 2 years, but may be extended for additional periods of not to exceed 2 years each.

Dated: December 14, 1968.

WILBUR J. COHEN,
Secretary.

[F.R. Doc. 68-15191; Filed, Dec. 19, 1968; 8:48 a.m.]

Title 7—AGRICULTURE

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

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 729—PEANUTS

Subpart—Regulations for Determination of Acreage Allotments and Marketing Quotas for 1969 and Subsequent Crops of Peanuts

Correction

In F.R. Doc. 68-14804 appearing at page 18351 in the issue of Wednesday, December 11, 1968, the following corrections should be made:

1. In the third line of § 729.2(b) the word "or" should read "of".
2. In the second line of § 729.59 the second word should read "established".
3. In the fifth line of § 729.69(a)(2) the parenthetical expression should read "(1968-69)".

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

[Milk Order No. 106]

PART 1106—MILK IN OKLAHOMA METROPOLITAN MARKETING AREA

Order Suspending Certain Provision

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Oklahoma Metropolitan marketing area (7 CFR Part 1106), it is hereby found and determined that:

(a) The following provision of the order no longer tends to effectuate the declared policy of the Act for the period of December 1968 through January 1969:

That portion of § 1106.7(c) which reads "on routes" after the word "milk" and before the word "and", relating to pooling standards for distributing plants.

(b) Thirty days notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(1) This suspension order does not require of persons affected substantial or extensive preparation prior to the effective date.

(2) This suspension order is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area.

(3) This suspension order would continue to pool a distributing plant that is presently pooled by changing the requirement for disposition from 50 percent of Grade A receipts from dairy farmers and pool plants as Class I milk on routes to 50 percent of such receipts as Class I milk.

(4) Interested parties were afforded opportunity to file written data, views or arguments concerning this suspension (33 F.R. 18239). None were filed in opposition to the proposed suspension and views were filed in support of the proposed action.

Therefore, good cause exists for making this order effective December 1, 1968.

It is therefore ordered, That the aforesaid provision of the order is hereby suspended for the period of December 1968 through January 1969.

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

Effective date: December 1, 1968.

Signed at Washington, D.C., on December 17, 1968.

TED J. DAVIS,
Assistant Secretary.

[F.R. Doc. 68-15164; Filed, Dec. 19, 1968; 8:46 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airworthiness Docket No. 68-SW-87, Amdt. 39-695]

PART 39—AIRWORTHINESS DIRECTIVES

Mooney Models M20 and M20A

Amendment 39-180 (31 F.R. 288), AD 66-2-4 as amended by Amendment 39-244 (31 F.R. 7882), AD 66-2-4 requires inspection for wood rot and glue joint deterioration and repair, as necessary, on Mooney Models M20 and M20A airplanes. After issuing Amendment 39-244, additional in-flight failures attributable to undetected wood rot have occurred, and reports continue to be received indicating flagrant violations of standard aircraft practices for maintaining wood structures. Since this condition is likely to exist in other M20 and M20A airplanes AD 66-2-4 is being superseded by a new AD that requires more extensive inspection and repair, as necessary.

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

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

MOONEY. Applies to Model M20 and M20A airplanes.

Compliance required as indicated:

To detect wood and glue joint deterioration in wood wing and wood empennage structures inspect and rework in accordance with Mooney Service Bulletin M20-170 dated December 9, 1968, or equivalent approved by Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Southwest Region, Fort Worth, Tex.

(a) Within the next 10 hours time in service or within the next 30 days, whichever occurs first, after the effective date of this AD comply with Parts I, II, and III of Mooney Service Bulletin No. M20-170.

(b) At each 90-day interval after initial compliance comply with Parts II A, II D, III

A, and III D of Mooney Service Bulletin No. M20–170.

(c) At each 180-day interval after initial compliance comply with Parts II B, II D, III B, and III D of Mooney Service Bulletin No. M20–170.

(d) At each annual inspection comply with Parts II C, II D, III C, and III D of Mooney Service Bulletin No. M20–170.

If wood or glue joint deterioration is detected repair must be effected in accordance with Mooney Service Bulletin No. M20–170 or FAA approved standard practice prior to further flight, except that the airplane may be flown in accordance with FAR 21.197 to a base where the repair can be performed.

Mooney Service Bulletin M20–170–1 Kit (optional) includes all the pertinent parts and instructions for replacement of the wood empennage with an all metal empennage which, if installed, relieves the owner or operator from the inspection requirements of this AD applicable to the wood empennage.

This supersedes Amendment 39–180 (31 F.R. 288) AD 66–2–4 as amended by Amendment 39–244 (31 F.R. 7882).

This amendment becomes effective December 20, 1968.

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

Issued in Fort Worth, Tex. on December 10, 1968.

A. L. COULTER,
Acting Director, Southwest Region.

[F.R. Doc. 68–15203; Filed, Dec. 19, 1968; 8:49 a.m.]

[Docket No. 9216, Amdt. No. 39–699]

PART 39—AIRWORTHINESS DIRECTIVES

Vickers Viscount Models 744, 745D and 810 Series Airplanes

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive applicable to Vickers Viscount Models 744, 745D and 810 Series airplanes to require periodic inspection of the engine nacelle cross beam attachment eye end fittings for cracks and the replacement of cracked ones, was published in 33 F.R. 15878.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No comments have been received.

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

VICKERS VISCOUNT. Applies to Vickers Viscount Models 744, 745D and 810 Series Airplanes.

Compliance required as indicated.

To prevent fatigue failure of engine nacelle cross beam attachment eye end fittings P/N 70116–383/384 or 80203–1719/1720 or 81003/1415/1416 located on the lower surface of the inner wing station 96 and P/N 70116–385/386 or 80203–1721/1722 or 81003–1417/1418 located on the lower surface of the inner wing at wing station 143, accomplish the following:

(a) For cross beam attachment eye end fittings located at wing station 96 that have accumulated 7,700 or more landings on the effective date of this AD, inspect in accordance with paragraph (c) within the next 300 landings after the effective date of this AD, unless already accomplished within the last 450 landings, and thereafter at intervals not to exceed 1,000 landings from the last inspection.

(b) For cross beam attachment eye end fittings located at wing station 96 that have accumulated less than 7,700 landings on the effective date of this AD, inspect in accordance with paragraph (c) prior to the accumulation of 8,000 landings, unless already accomplished within the last 450 landings, and thereafter at intervals not to exceed 1,000 landings from the last inspection.

(c) Visually inspect the fittings for cracks or fractures in accordance with British Aircraft Corporation Preliminary Technical Leaflet No. 273, Issue 1 (700 Series) or No. 137, Issue I (800/810 Series) or later ARB approved issues or an FAA approved equivalent.

(d) If cracks are detected during the inspection specified in paragraph (c), within the next 200 landings replace the fittings in accordance with paragraph (f).

(e) If a fracture is found during the inspection specified in paragraph (c), before further flight replace the fittings in accordance with paragraph (f) and visually inspect the eye end fitting at wing station 143 within the next 500 landings and replace any cracked fitting with a fitting of the same part number within the next 100 landings.

(f) Replace eye end fittings and the mating fork end fittings P/N 70116–387 or 80216–259 or 81016–695 with fittings of the same part numbers or replace the eye end fitting with P/N 51003–2643/2644 and the fork end fitting with P/N 81016–1675 in accordance with British Aircraft Corporation Modification Bulletin No. D–3215 dated May 14, 1968, or FG.2091 dated May 14, 1968 or later ARB approved issues or an equivalent approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa and Middle East Region.

(g) The repetitive inspections required in this AD may be discontinued following incorporation of the applicable modification in accordance with paragraph (f) of this AD.

(h) For the purpose of complying with this AD, subject to acceptance by the assigned FAA Maintenance Inspector, the number of landings may be determined by dividing each airplane's hours time in service by the operator's fleet average time from takeoff to landing for the airplane type.

This amendment becomes effective on January 19, 1969.

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

Issued in Washington, D.C., on December 13, 1968.

EDWARD C. HODSON,
Acting Director,
Flight Standards Service.

[F.R. Doc. 68–15204; Filed, Dec. 19, 1968; 8:49 a.m.]

[Airspace Docket No. 68–CE–72]

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

Alteration of Control Zone; Correction

On November 30, 1968, a final rule was published in the FEDERAL REGISTER (33 F.R. 17850), F.R. Doc. 68–14346, which altered the Minneapolis, Minn. control zone. In this rule the effective date of the amendment was incorrectly recited as February 6, 1968. It should have read February 6, 1969. Action is taken herein to make this correction.

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

In consideration of the foregoing, the effective date of "February 6, 1968," as set forth in the FEDERAL REGISTER in F.R. Doc. 68–14346, is deleted and "February 6, 1969," is substituted therefor.

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

Issued in Kansas City, Mo., on December 6, 1968.

EDWARD C. MARSH,
Director, Central Region.

[F.R. Doc. 68–15205; Filed Dec. 19, 1968; 8:49 a.m.]

[Airspace Docket No. 68–WE–92]

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

Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the description of the Visalia, Calif., control zone.

The effective time of the Visalia, Calif., control zone is currently designated from 0700 to 2100 hours local time daily. These effective hours coincide with the operational hours of United Air Lines personnel who are responsible for weather reporting services at Visalia Airport. The operational hours of United Air Lines personnel are being changed to 0800 to 1900 hours local time daily. Therefore action is taken herein to redesignate the Visalia control zone with effective hours coincident with operational hours of United Air Lines personnel.

Since this amendment 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 as hereinafter set forth.

In § 71.171 (33 F.R. 2132) the Visalia, Calif., control zone is amended by deleting "* * * 0700 to 2100 hours, * * *" and substituting "* * * 0800 to 1900 hours, * * *" therefor.

Effective date. This amendment shall be effective 0901 G.m.t., February 6, 1969.

Issued in Los Angeles, California, on December 9, 1968.

LEE E. WARREN,
Acting Director, Western Region.

[F.R. Doc. 68–15206; Filed, Dec. 19, 1968; 8:49 a.m.]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Reg. Docket No. 9293; Amdt. 627]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

The amendments to the standard instrument approach procedures contained herein are adopted to become effective when indicated in order to promote safety. The amended procedures supersede the existing procedures of the same classification now in effect for the airports specified therein. For the convenience of the users, the complete procedure is republished in this amendment indicating the changes to the existing procedures.

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

In view of the foregoing and pursuant to the authority delegated to me by the Administrator (24 F.R. 5662), Part 97 (14 CFR Part 97) is amended as follows:

1. By amending § 97.11 of Subpart B to amend low or medium frequency range (L/MF), automatic direction finding (ADF) and very high frequency omnirange (VOR) procedures as follows:

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE NDB (ADF)

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
					2-engine or less		More than 2-engine, more than 65 knots
From—	To—	Course and distance	Minimum altitude (feet)	Condition	65 knots or less	More than 65 knots	
OGD VOR	LGU RBn	Direct	11,800	T-dn # %-	500-1	500-1	500-1
Cornish Int	LGU RBn	Direct	9,500	C-dn* #-	800-1	800-1¼	800-1½
				A-dn	NA	NA	NA

Procedure turn W side of crs, 340° Outbnd, 160° Inbnd, 7900′ within 10 miles.
Minimum altitude over facility on final approach crs, 5900′.
Crs and distance, facility to airport, 136°—2.9 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 2.9 miles after passing LGU RBn, turn right, climb direct LGU RBn, continue climb to 9500′ within 15 miles on bearing 340° from LGU RBn. All maneuvering W of crs.
CAUTION: High terrain all quadrants.
*Use Hill AFB, Utah, altimeter.
#Circling not authorized E of Runways 17-35.
%Takeoffs all runways: Climb visually over airport to 4900′ thence direct LGU RBn, continue climb on bearing 340° from LGU RBn within 10 miles to cross LGU RBn at or above: Northbound crs, 340° to Cornish Int, 8000′; southbound direct OGD VOR, 8400′.
MSA within 25 miles of facility: 000–270°—12,800′; 270°–360°—11,300′.

City, Logan; State, Utah; Airport name, Logan-Cache; Elev., 4453′; Fac. Class., MH W; Ident., LGU; Procedure No. NDB (ADF) Runway 17, Amdt. 1; Eff. date, 2 Jan. 69; Sup. Amdt. No. Orig.; Dated, 16 Dec. 67

2. By amending § 97.11 of Subpart B to delete low or medium frequency range (L/MF), automatic direction finding (ADF) and very high frequency omnirange (VOR) procedures as follows:

Fall River, Mass.—Fall River Municipal, NDB (ADF) Runway 24, Amdt. 3, 15 Apr. 1967 (established under Subpart C).
Huntington, W. Va.—Tri-State (Walker-Long Field), NDB (ADF) Runway 11, Amdt. 5, 17 June 1967 (established under Subpart C).
Piqua, Ohio—Piqua, VOR 1, Amdt. 4, 1 Jan. 1966 (established under Subpart C).

3. By amending § 97.13 of Subpart B to establish terminal very high frequency omnirange (TerVOR) procedures as follows:

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE TERMINAL VOR

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
					2-engine or less		More than 2-engine, more than 65 knots
From—	To—	Course and distance	Minimum altitude (feet)	Condition	65 knots or less	More than 65 knots	
Pinckney Int	JXN VOR	Direct	2600	T-dn	300-1	300-1	200-½
				C-dn	700-1	700-1	700-1½
				S-dn-23#	700-1	700-1	700-1
				A-dn	800-2	800-2	800-2

Procedure turn N side of crs, 046° outbnd, 226° Inbnd, 2300′ within 10 miles.
Facility on airport.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished over JXN VOR, climb to 2300′ on R 226° within 10 miles. Reverse crs, proceed to JXN VOR.
CAUTION: 1946′ tower 11.3 miles NW; 1330′ tower 2.2 miles SE; 1310′ tower 3 miles NE.
#Reduction not authorized for nonstandard REIL.
MSA within 25 miles of facility: 000°–090°—2400′; 090°–180°—2500′; 180°–270°—2600′; 270°–360°—3000′.

City, Jackson; State, Mich.; Airport name, Reynolds Municipal; Elev., 1000′; Fac. Class., L-B VORTAC; Ident., JXN; Procedure No. Ter VOR-23, Amdt. 5; Eff. date, 2 Jan. 69; Sup. Amdt. No. 4; Dated, 17 Dec. 66

4. By amending § 97.15 of Subpart B to delete very high frequency omnirange-distance measuring equipment (VOR/DME) procedures as follows:

Miami, Fla.—Opa Locka, VOR/DME 1, Amdt. 5, 16 Apr. 1966 (established under Subpart C).

5. By amending § 97.17 of Subpart B to amend instrument landing system (ILS) procedures as follows:

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE ILS

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.
If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
					2-engine or less		More than 2-engine, more than 65 knots
From—	To—	Course and distance	Minimum altitude (feet)	Condition	65 knots or less	More than 65 knots	
Wolcottsville Int	Clarence LOM (final)	Direct	2100	T-dn	300–1	300–1	200–½
Buffalo VOR	Clarence LOM	Direct	2100	C-dn	400–1	500–1	500–1½
				S-dn-23	200–½	200–½	200–½
				With glide slope inoperative:			
				S-dn-23#	400–1	400–1	400–1
				A-dn	600–2	600–2	600–2

Radar available.
Procedure turn N side of crs, 052° Outbnd, 232° Inbnd, 2100′ within 10 miles of Clarence LOM.
Minimum altitude at glide slope interception Inbnd, 2100′.
Altitude of glide slope and distance to approach end of runway at OM, 2082′—4 miles; at MM, 950′—0.5 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4 miles after passing LOM, climb to 2500′ on SW crs ILS, intercept BUF VOR R 250°, proceed to Crystal Beach Int. Hold W, right turns, 1 minute, 070° Inbnd, or as directed by ATC, climb to 2100′ on SW crs ILS within 10 miles. Make left turn, proceed direct to Clarence LOM, hold NE Clarence LOM, right turns, 1 minute, 232° Inbnd.
NOTE: Back crs unusable beyond 15 miles.
CAUTION: 1349′ TV tower 5 miles WNW of airport.
#400–¾ authorized with operative high-intensity runway lights except for 4-engine turbojets; 400–½ authorized with operative ALS, except for 4-engine turbojets.
MSA within 25 miles of Clarence LOM: 000°–090°—2200′; 090°–180°—3900′; 180°–270°—3900′; 270°–360°—2600′.

City, Buffalo; State, N.Y.; Airport name, Greater Buffalo International; Elev., 723′; Fac. Class., ILS; Ident., I-BUF; Procedure No. ILS Runway 23, Amdt. 17; Eff. date, 2 Jan. 69; Sup. Amdt. No. LOC Runway 23, Amdt. 16; Dated, 16 May 68

6. By amending § 97.17 of Subpart B to delete instrument landing system (ILS) procedures as follows:

Huntington, W. Va.—Tri-State (Walker-Long Field), LOC Runway 11, Amdt. 7, 17 June 1967 (established under Subpart C).
Huntington, W. Va.—Tri-State (Walker-Long Field) LOC (BC) Runway 29, Amdt. 3, 17 June 1967 (established under Subpart C).

7. By amending § 97.19 of Subpart B to cancel radar procedures as follows:

Oxnard, Calif.—Oxnard AFB, Radar 1, Orig., 22 Jan. 1966 (established under Subpart C).

8. By amending § 97.23 of Subpart C to establish very high frequency omnirange (VOR) and very high frequency-distance measuring equipment (VOR/DME) procedures as follows:

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL, except HAT, HAA, and RA. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles or hundreds of feet RVR.
If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator. Initial approach minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 6.3 miles after passing ONT VOR.
				Climbing left turn to 3000′ direct to ONT VOR and hold.*
				Supplementary charting information: *Hold E ONT VOR, 258° Inbnd, 1 minute, left turns. Final approach to intersection of Runways 3 and 26.

Procedure turn not authorized. One-minute holding pattern, ONT VOR holding fix, E, 258° Inbnd, right turns, 3000′.
FAF, ONT VOR. Final approach crs, 289°. Distance FAF to MAP, 6.3 miles.
Minimum altitude over ONT VOR, 2700′.
MSA: 020°–110°—8900′; 110°–200°—6700′; 200°–290°—6500′; 290°–020°—11,100′.
NOTES: (1) Radar vectoring. (2) Use Ontario altimeter setting.
%IFR departure procedures: (1) Runway 21, climb on runway heading to 1300′, left-climbing turn direct ONT VOR. (This departure requires 181′/mile rate of climb to 1300′ for Categories A, B, and C; Category D requires 350′/mile rate of climb to 3100′.) (2) Runway 3, right-climbing turn to ONT VOR. Continue climb in 1-minute holding pattern E of ONT VOR, 258° Inbnd, right turns to sufficient altitude to cross ONT VOR at airway MEA for direction of flight.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	VIS
C	1340	1	688	1340	1	688	1340	1½	688	NA
A	Not authorized.		T 2-eng. or less—Standard.%				T over 2-eng.—Standard.%			

City, Chino; State, Calif.; Airport name, Chino; Elev., 652′; Facility, ONT; Procedure No. VOR-1, Amdt. Orig.; Eff. date, 2 Jan. 69

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 9.8 miles after passing MIA VORTAC.
				Climb to 1500′ on R 108° within 15 miles. Supplementary charting information: Final approach crs intercepts at runway threshold. TDZ elevation, 9′.

Procedure turn not authorized. Approach crs (profile) starts at MIA VORTAC.
FAF, MIA VORTAC. Final approach crs, 108°. Distance FAF to MAP, 9.8 miles.
Minimum altitude over MIA VORTAC, 1500′; over Alligator Int, 1000′.
MSA: 000°–270°—2000′; 270°–360°—1200′.
NOTES: (1) Radar vectoring. (2) Use Miami FSS altimeter setting when control zone not effective.
%Takeoff not authorized all other runways.
**Alternate minimums not authorized when control zone not effective.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-9L	1000	1¼	991	1000	1½	991	1000	1¾	991	1000	2	991
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1000	1¼	991	1000	1½	991	1000	1¾	991	1000	2	991
	VOR/DME/NDB Minimums:											
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-9L	380	1	371	380	1	371	380	1	371	380	1	371
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	500	1	491	500	1	491	500	1½	491	560	2	551
A	1000–2.**		T 2-eng. or less—Standard Runways 9L, 27R, 18L.%				T over 2-eng.—Standard Runways 9L, 27R, 18L.%					

City, Miami; State, Fla.; Airport name, Opa Locks; Elev., 9′; Facility, MIA; Procedure No. VOR Runway 9L, Amdt. 6; Eff. date, 2 Jan. 69; Sup. Amdt. No. VOR/DME 1, Amdt. 5; Dated, 16 Apr. 66

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 9.6 miles after passing DAY VOR TAC.
				Climb to 2800′ and proceed direct to ROD VORTAC and hold. Supplementary charting information: Hold W, 1 minute, right turns, 089° Inbnd.

Procedure turn W side of crs, 205° Outbnd, 025°Inbnd, 3000′ within 10 miles of DAY VORTAC.
FAF, DAY VORTAC. Final approach crs, 025°. Distance FAF to MAP, 9.6 miles.
Minimum altitude over DAY VORTAC, 3000′; over 6-mile DME Fix R 025°, 1580′.
MSA: 000°–090°—2400′; 090°–180°—3100′; 180°–270°—2500′; 270°–360°—2500′.
NOTES: (1) Radar vectoring. (2) Use Dayton FSS altimeter setting.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C	D
	MDA	VIS	HAA	MDA	VIS	HAA	VIS	VIS
C	1580	1	579	1580	1	579	NA	NA
	DME Minimums:							
	MDA	VIS	HAA	MDA	VIS	HAA	VIS	VIS
C	1380	1	379	1460	1	459	NA	NA
A	Not authorized.		T 2-eng. or less—Standard.				T over 2-eng.—Not authorized.	

City, Piqua; State, Ohio; Airport name, Piqua; Elev., 1001′; Facility, DAY; Procedure No. VOR-1, Amdt. 5; Eff. date, 2 Jan. 69; Sup. Amdt. No. VOR 1, Amdt. 4; Dated, 1 Jan. 66

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE VOR—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 5.6 miles after passing Pontoon Int.
SAC VOR	Hood Int	Direct	2000	Climbing right turn to 2000′ to SAC VORTAC via R 195°.
Hood Int	Pontoon Int (NOPT)	Direct	1800	Supplementary charting information: Final approach crs intercepts midpoint of Runways 7/25. Two (2) transmission towers between Ida Island and Long Island, W of Isleton. Rio Vista Bridge tower 212′. A 250′ and a 200′ MSL tower 1.6 miles NE of Rio Vista Airport.

Procedure turn not authorized. Approach crs (profile) starts at Hood Int.
FAF, Pontoon Int. Final approach crs, 185°. Distance FAF to MAP, 5.6 miles.
Minimum altitude over Hood Int, 2000′; over Pontoon Int, 1800′.
MSA: 000°–180°—3000′; 180°–270°—3900′; 270°–360°—4000′.
NOTES: (1) Radar vectoring. (2) Use Sacramento altimeter setting.
%One mile visibility required Runway 14.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C	D
	MDA	VIS	HAA	MDA	VIS	HAA	VIS	VIS
C	760	1	719	760	1	719	NA	NA
A	Not authorized.		T 2-eng. or less—Standard.				T over 2-eng.—Standard. %	

City, Rio Vista; State, Calif.; Airport name, Rio Vista Municipal; Elev., 41′; Facility, SAC; Procedure No. VOR-1, Amdt. Orig.; Eff. date, 2 Jan. 69

9. By amending § 97.25 of Subpart C to establish localizer (LOC) and localizer-type directional aid (LDA) procedures as follows:

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE NDB (ADF)

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL, except HAT, HAA, and RA: Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles or hundreds of feet RVR.
If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator. Initial approach minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 4.6 miles after passing HT LOM.
Hamlin Int	HT LOM	Direct	2700	Climb to 2700′ on SE crs of LOC to Shoals
Wayne Int	HT LOM	Direct	2600	BCM or, when directed by ATC, make
Crown City Int	HT LOM	Direct	2600	right-climbing turn to 2600′. Return to
ECB VOR	Naples Int	Direct	2600	HT LOM. Hold NW, 1 minute, right
YRK VOR	Naples Int	Direct	2600	turns, 114° Inbnd.
Naples Int	HT LOM (NOPT)	Direct	2200	Supplementary charting information: Hold SE, 1 minute, right turns, 294° Inbnd. Localizer crs intercepts runway centerline at middle marker. 1034′ MSL trees 38°23′11″ N., 82°39′07″ W. TDZ elevation, 828′.

Procedure turn S side of crs, 294° Outbnd, 114° Inbnd, 2600′ within 10 miles of HT LOM.
FAF, HT LOM. Final approach crs, 114°. Distance FAF to MAP, 4.6 miles.
Minimum altitude over HT LOM, 2200′.
MSA: 000°–090°—3100′; 090°–180°—2700′; 180°–360°—2500′.
NOTE: LOC unusable from middle marker Inbnd.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-11	1240	½	412	1240	½	412	1240	½	412	1240	¾	412
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1280	1	452	1280	1	452	1320	1½	492	1380	2	552
A	Standard.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.					

City, Huntington; State, W. Va.; Airport name, Tri-State (Walker-Long Field); Elev., 828′; Facility, I-HTS; Procedure No. LOC Runway 11, Amdt. 8; Eff. date, 2 Jan. 69; Sup. Amdt. No. 7; Dated, 17 June 67

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE NDB (ADF)—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 3.4 miles after passing Shoals BCM.
HT LOM	Shoals (back crs marker)	Direct	2700	Climb to 2600′ on crs 294° to the HT LOM.
HNN VORTAC	Hamlin Int	Via HNN, R 204°	3000	Supplementary charting information: Hold NW, 1 minute, right turns, 114° Inbnd. Localizer crs 175′ right of runway centerline at 1 mile. TDZ elevation, 828′.
Hamlin Int	Shoals (back crs marker) (NOPT)	Direct	1800	

Procedure turn N side of crs, 114° Outbnd, 294° Inbnd, 2700′ within 10 miles of Shoals BCM.
FAF, Shoals BCM. Final approach crs, 294°. Distance FAF to MAP, 3.4 miles.
Minimum altitude over Shoals BCM, 1800′.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-29	1220	¾	392	1220	¾	392	1220	¾	392	1220	1	392
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1280	1	452	1280	1	452	1320	1½	492	1380	2	552
A	Standard.			T 2-eng. or less—Standard.				T over 2-eng.—Standard.				

City, Huntington; State, W. Va.; Airport name, Tri-State (Walker-Long Field); Elev., 828′; Facility, I-HTS; Procedure No. LOC (BC) Runway 29, Amdt. 4; Eff. date, 2 Jan. 69; Sup. Amdt. No. 3; Dated, 17 June 67

10. By amending § 97.25 of Subpart C to amend localizer (LOC) and localizer-type directional aid (LDA) procedures as follows:

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE LOC

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL, except HAT, HAA, and RA. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles or hundreds of feet RVR.
If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator. Initial approach minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 5 miles after passing Duval Int.
				Climb to 1600′ on LOC crs 250° within 15 miles.
				Supplementary charting information: ALS Runway 7, HIRL Runways 7/25. TDZ elevation, 28′.

Procedure turn not authorized.
FAF, Duval Int. Final approach crs, 250°. Distance FAF to MAP, 5 miles.
Minimum altitude over Duval Int, 1600′.
NOTES: (1) Radar required. (2) ASR.
*Inoperative table does not apply to HIRL Runway 25.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-25*	460	1	432	460	1	432	460	1	432	460	1	432
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	500	1	471	500	1	471	500	1½	471	580	2	551
A	Standard.			T 2-eng. or less—RVR 24, Runway 7; Standard all other runways.				T over 2-eng.—RVR 24, Runway 7; Standard all other runways.				

City, Jacksonville; State, Fla.; Airport name, Jacksonville International; Elev., 29′; Facility, I-JAX; Procedure No. LOC (BC) Runway 25, Amdt. 1; Eff. date, 2 Jan. 69; Sup. Amdt. No. Orig.; Dated, 6 Oct. 68

11. By amending § 97.27 of Subpart C to establish nondirectional beacon (automatic direction finder) (NDB/ADF) procedures as follows:

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE NDB (ADF)

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL, except HAT, HAA, and RA. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles or hundreds of feet RVR.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator. Initial approach minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: FLR NDB.
Providence VOR	FLR NDB	Direct	1900	Make right-climbing turn to 1900'. Return to FLR NDB and hold.
Whitman VOR	FLR NDB	Direct	1900	Supplementary charting information: Hold NE of FLR NDB, 245° Inbnd, 1 minute, right turns.

Procedure turn N side of crs, 065° Outbnd, 245° Inbnd, 1900' within 10 miles of FLR NDB.
Final approach crs, 245°.
MSA: 000°–090°—1900'; 090°–180°—1600'; 180°–270°—2100'; 270°–360°—2200'.
NOTES: (1) Radar vectoring. (2) Use Providence altimeter setting. (3) Approach from a holding pattern not authorized. Procedure turn required. (4) Facility must be monitored aurally during approach.
*Night operations Runways 6/24 only.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	VIS
S-24	660	1	468	660	1	468	660	1	468	NA
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	
C*	680	1	488	680	1	488	680	1½	488	NA
A	Not authorized.		T 2-eng. or less—Standard.*				T over 2-eng.—Standard.*			

City, Fall River; State, Mass.; Airport name, Fall River Municipal; Elev., 192'; Facility, FLR; Procedure No. NDB (ADF) Runway 24, Amdt. 4; Eff. date, 2 Jan. 69; Sup. Amdt. No. 3; Dated, 15 Apr. 67

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: 4.6 miles after passing HT LOM.
Hamlin Int	HT LOM	Direct	2700	Climb to 2700' on SE crs of LOC to Shoals BCM or, when directed by ATC, make right-climbing turn to 2600'. Return to HT LOM. Hold NW, 1 minute, right turns, 114° Inbnd.
Wayne Int	HT LOM	Direct	2600	
Crown City Int	HT LOM	Direct	2600	
ECB VOR	Naples Int	Direct	2600	
YRK VOR	Naples Int	Direct	2600	
Naples Int	HT LOM (NOPT)	Direct	2200	Supplementary charting information: Hold SE, 1 minute, right turns, 294° Inbnd. TDZ elevation, 828'.

Procedure turn S side of crs, 294° Outbnd, 114° Inbnd, 2600' within 10 miles of HT LOM.
FAF, HT LOM. Final approach crs, 114°. Distance FAF to MAP, 4.6 miles.
Minimum altitude over HT LOM, 2200'.
MSA: 000°–090°—3100'; 090°–180°—2700'; 180°–360°—2500'.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-11	1340	¾	512	1340	¾	512	1340	¾	512	1340	1	512
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1340	1	512	1340	1	512	1340	1½	512	1380	2	552
A	Standard.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.					

City, Huntington; State, W. Va.; Airport name, Tri-State (Walker-Long Field); Elev., 828'; Facility, HT; Procedure No. NDB (ADF) Runway 11, Amdt. 6; Eff. date, 2 Jan. 69; Sup. Amdt. No. 5; Dated, 17 June 67

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE NDB (ADF)—Continued

Terminal routes				Missed approach
From—	To—	Via	Minimum altitudes (feet)	MAP: MFV NDB.
				Make climbing right turn to 1500′ direct to MFV NDB and hold. Supplementary charting information: Hold SW of MFV NDB, 1 minute, right turns, 028° Inbnd.

Procedure turn E side of crs, 208° Oubtnd, 028° Inbnd, 1500′ within 10 miles of Melfa NDB.
Final approach crs, 028°.
Minimum altitude over Melfa NDB, 640′.*
MSA: 000°-090°—1600′; 090°-180°—1400′; 180°-270°—1400′; 270°-360°—1600′.
NOTE: Use NASA Wallops Station altimeter setting.
*When NASA Wallops Station altimeter setting not available, use Salisbury, Md., altimeter setting and increase circling and straight-in MDA's by 100′ and increase straight-in visibility minimums by ¼ mile for Category C and Category D aircraft.

DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-2*	640	1	592	640	1	592	640	1	592	640	1¼	592
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C*	640	1	592	640	1	592	640	1½	592	640	2	592
A	Not authorized.		T 2-eng. or less—Standard.				T over 2-eng.—Standard.					

City, Melfa; State, Va.; Airport name, Accomack County; Elev., 48′; Facility, MFV; Procedure No. NDB (ADF) Runway 2, Amdt. Orig.; Eff. date, 2 Jan. 69

12. By amending § 97.31 of Subpart C to amend precision approach radar (PAR) and airport surveillance radar (ASR) procedures as follows:

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE RADAR

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL, except HAT, HAA, and RA. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles or hundreds of feet RVR.
If a radar instrument approach is conducted at the below named airport, it shall be in accordance with the following instrument procedure, unless an approach is conducted in accordance with a different procedure authorized for such airport by the Administrator. Initial approach minimum altitude(s) shall correspond with those established for en route operation in the particular area or as set forth below. Positive identification must be established with the radar controller. From initial contact with radar to final authorized landing minimums, the instructions of the radar controller are mandatory except when (A) visual contact is established on final approach at or before descent to the authorized landing minimums, or (B) at Pilot's discretion if it appears desirable to discontinue the approach. Except when the radar controller may direct otherwise prior to final approach, a missed approach shall be executed as provided below when (A) communication on final approach is lost for more than 5 seconds during a precision approach, or for more than 30 seconds during a surveillance approach; (B) directed by radar controller; (C) visual contact is not established upon descent to authorized landing minimums; or (D) if landing is not accomplished.

Radar terminal area maneuvering sectors and altitudes (sectors and distances measured from radar antenna)

From—	To—	Distance	Altitude	Distance	Altitude	Distance	Altitude	Distance	Altitude	Distance	Altitude	Notes
000°	260°	0–25	2200	25–40	2400							1. Descend aircraft to MDA after FAF. ASR FAF Runways 7, 16, and 34, 5 miles from threshold. Runway 25, 4.7 miles from threshold.
260°	000°	0–7	2200	7–25	2400	25–35	2500	35–40	2700			2. Component inoperative table does not apply to REIL Runways 25 and 34.

Supplementary charting information: Hold SE Waterville VOR, right turns, 1 minute, 320° Inbnd. Hold SW Toledo LOM, right turns, 1 minute, 069° Inbnd. TDZ elevation Runway 7—681′. TDZ elevation Runway 16—673′. TDZ elevation Runway 25—678′. TDZ elevation Runway 34—665′.

Radar control will provide 1000′ vertical clearance within 3-mile radius of the 1629′ and 1625′ towers 18 miles, and 2049′ tower 21 miles NE of airport.
Missed approach:
Runway 7—Climbing right turn to 2200′, proceed to Waterville VOR and hold.
Runway 16—Climbing left turn to 2200′, proceed to Waterville VOR and hold.
Runway 25—Climb to 2100′, proceed to Toledo LOM and hold.
Runway 34—Climbing left turn to 2100′, proceed to Toledo LOM and hold.

STANDARD INSTRUMENT APPROACH PROCEDURE—TYPE RADAR—Continued
DAY AND NIGHT MINIMUMS

Cond.	A			B			C			D		
	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT	MDA	VIS	HAT
S-7	1120	RVR 24	439	1120	RVR 24	439	1120	RVR 24	439	1120	RVR 50	439
S-25	1040	¾	362	1040	¾	362	1040	¾	362	1040	1	362
S-16	1020	1	347	1020	1	347	1020	1	347	1020	1	347
S-34	1120	1	455	1120	1	455	1120	1	455	1120	1	455
	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA	MDA	VIS	HAA
C	1180	1	496	1180	1	496	1180	1½	496	1240	2	556
A	Standard.		T 2-eng. or less—RVR 24, Runway 7; Standard all other runways.						T over 2-eng.—RVR 24, Runway 7; Standard all other runways.			

City, Toledo; State, Ohio; Airport name, Toledo Express; Elev., 684'; Facility, Toledo Radar; Procedure No. Radar-1, Amdt. 7; Eff. date, 2 Jan. 69; Sup. Amdt. No. 6; Dated, 24 Oct. 68

These procedures shall become effective on the dates specified therein.

(Secs. 307(c), 313(a), 601, Federal Aviation Act of 1958; 49 U.S.C. 1348(c), 1354(a), 1421; 72 Stat. 749, 752, 775)

Issued in Washington, D.C., on November 27, 1968.

JAMES F. RUDOLPH,
Director, Flight Standards Service.

[F.R. Doc. 68-14589; Filed, Dec. 19, 1968; 8:45 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

Commission Declined To Approve Proposed Three Party Promotional Plan in Food Industry

§ 15.312 Commission declined to approve proposed three party promotional plan in the food industry.

(a) The Commission issued an advisory opinion informing an applicant that his proposed three-party promotional plan in the food industry would violate statutes administered by the Commission.

(b) Under the plan, the promoter proposes to solicit sales of TV advertising time to suppliers of products retailed principally through grocery stores. The rates charged suppliers would be based exclusively on the television time furnished the supplier. In addition, each such supplier would receive the right to have its products promoted in the establishment of participating retailers.

(c) Retail participation in the plan would be solicited by the promoter through invitations published in trade journals of general circulation to the retail trades. Retailers would participate in the plan by providing special in-store displays of products specified by suppliers who purchase advertising time on the promoter's programs and by agreeing with such suppliers to maintain during the period of the promotion a reasonable inventory of the products involved in the in-store promotion. The display obligation of each participating retailer would be geared to the participating retailer's facilities and the product or products to be displayed by that retailer. In return, participating retailers would obtain advertising on the promoter's television programs in accordance with a formula giving each participating retailer a minimum 10-second advertising spot on a television program during the specified period of promotion. Additional 10-second spots would be allowed on the basis of the retailer's purchases during an immediate prior period of suppliers' products covered by the promotional plan.

(d) On the basis of the information submitted in connection with the application for an advisory opinion, it appeared to the Commission that the proposed arrangements for individual negotiations between suppliers and retailers with respect to display obligations of the retailers would probably violate section 2(d) of the Clayton Act, as amended, and possibly section 5 of the Federal Trade Commission Act. Furthermore, the plan made inadequate provision for informing the retailers of their opportunity to participate.

(38 Stat. 717, as amended; 15 U.S.C. 41-58; 49 Stat. 1526; 15 U.S.C. 13, as amended)

Issued: December 19, 1968.

By direction of the Commission.

Commissioner Elman did not concur in the Commission's opinion.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 68-15171; Filed, Dec. 19, 1968; 8:46 a.m.]

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

Marking of 18 Karat White Gold Ring With Platinum Baguette Prongs

§ 15.313 Marking of 18 karat white gold ring with platinum baguette prongs.

(a) The Commission rendered an advisory opinion in which it advised a ring manufacturer that it would be improper to place the following mark on rings composed of 18 karat white gold with platinum baguette prongs: "18K-Plat".

(b) In rejecting the proposed mark, the Commission cited the following two reasons: "First, since the prongs of the center stone are made out of white gold which resembles the color of the platinum baguette prongs, prospective purchasers might believe that the center prongs as well as the baguette prongs are also made of platinum. Second, to the uninitiated prospective purchaser, the proposed mark, coupled with the similarity in color of the entire ring, might mean that the ring is made in its entirety out of platinum consisting of 18 karat fineness."

(c) Similarly, the Commission also rejected two other proposed markings ("18K-10% Plat" and "90% 18K-10% Plat.") because they leave the consumer to speculate as to the exact part of the ring which is composed of platinum. Concluding that these two alternative suggestions are unacceptable, the Commission said: "Here, again, because of the similarity in color of the white gold and platinum the consumer might conclude that all of the prongs, including those for the center stone, are of platinum composition. Under these circumstances, it is not enough to merely say that the ring contains 10 percent platinum and 90 percent gold without disclosing the true composition of the various parts of the ring. In short, the Commission believes that the mark should clearly limit the platinum content to the baguette prongs and one possible suggestion would be as follows: '18K-baguette prongs Plat'. Any other language of equal clarity would, of course, be acceptable."

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

Issued: December 19, 1968.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 68-15172; Filed, Dec. 19, 1968; 8:46 a.m.]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

INCORPORATION BY REFERENCE OF SEC FORMS

In Chapter II of Title 17 of the Code of Federal Regulations, Parts 239, 249, 259, 269, 274, and 279 are revised to read as set forth below.

The purpose of these revisions is to incorporate by reference, pursuant to 5 U.S.C. 552(a)(1) and 1 CFR Part 20, the forms prescribed for use under the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, and the Investment Advisers Act of 1940. No substantive changes are made in the text of the forms.

Effective date. This revision shall become effective upon publication in the FEDERAL REGISTER.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

DECEMBER 16, 1968.

Incorporation by reference provisions approved by the Director of the Federal Register December 19, 1968.

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

Sec.

AUTHORITY: The provisions of this Part 239 issued under secs. 3, 7, 10, 19, 48 Stat. 76, 78, 81, 85, 906, 908; sec. 305, 53 Stat. 1154, 59 Stat. 167; secs. 8, 303, 68 Stat. 685, 687; 15 U.S.C. 77c, 77g, 77j, 77s.

§ 239.0–1 Incorporation by reference.

(a) The forms prescribed for use under the Securities Act of 1933, which are identified and described in this part, are hereby incorporated by reference pursuant to 5 U.S.C. 552(a)(1) and 1 CFR Part 20.

(b) Copies of the forms prescribed in this part may be obtained on request addressed to Securities and Exchange Commission, Washington, D.C. 20549. The forms may also be inspected at that address, and at the Commission's regional and branch offices whose addresses appear at § 200.11 of this chapter.

(c) Revisions or amendments of the forms may be issued from time to time by the Securities and Exchange Commission. An historic file of such amendments or revisions is maintained and made available for inspection at the Securities and Exchange Commission, Washington, D.C. 20549.

Subpart A—Forms for Registration Statements

§ 239.4 Form C–2, for certain types of certificates of interest in securities.

This form shall be used for registration under the Securities Act of 1933 of certificates of interest in securities of a single class of a single issuer, if the following conditions exist:

(a) The major part of the certificates are to be sold to the public for cash;

(b) Under the terms of the deposit agreement the depositor (as defined therein) has no rights or duties as depositor, subsequent to the deposit of the securities with the depositary;

(c) Under the terms of the deposit agreement the power to vote or give a consent with respect to the deposited securities may be exercised only by, or pursuant to the instructions of, the holders of the certificates of interest, except a power, if any, to vote to effect a split up of deposited stock in such manner as to cause no change in the aggregate capital stock liability of the issuer of the deposited securities;

(d) The securities deposited by the depositor are registered under the Securities Act of 1933 in connection with the sale of the certificates of interest.

§ 239.5 Form C–3, for American certificates against foreign issues and for the underlying securities.

This form shall be used for registration under the Securities Act of 1933 of American certificates (for example, so-called American depositary receipts for foreign shares or American participation certificates in foreign bonds or notes) issued against securities of foreign issuers deposited or to be deposited with an American depositary (whether physically held by such depositary in America or abroad) and of the foreign securities so deposited.

§ 239.6 Form D–1, for certificates of deposit.

(a) This form shall be used for registering certificates of deposit issued in anticipation of or in connection with a plan of reorganization or readjustment. If a plan of reorganization or readjustment is proposed at the time the call for deposits is to be made, parts I and II of Form D–1 should be filed at the same time. If no such plan is proposed at the time the call for deposits is to be made, part I may be filed alone, and part II must then be filed before the plan is submitted to the security holders or deposits are solicited under the plan. Part II is an amendment of part I and as such shall become effective on such date as the Commission may determine, having due regard to the public interest and the protection of investors.

(b) In the event that a registrant is exempted from the necessity for filing part I, he may nevertheless file part II.

(c) Before the issuance of the securities provided in the plan of readjustment or reorganization, Form S–1 (§ 239.11) is to be filed by the issuer of such securities, unless exempted from the necessity of such filing by the act.

NOTE: Form D–1 was amended at 12 F.R. 4077, June 24, 1947; 31 F.R. 7739, June 1, 1966.

§ 239.7 Form D–1A, for certificates of deposit issued by issuer of securities called for deposit.

This form shall be used only where the issuer of the certificates of deposit is the original issuer of the securities called for deposit, and only if the certificates of deposit are issued in connection with a plan of reorganization or readjustment which involves the issue of new securities to the holders of certificates of deposit.

NOTE: Form D–1A was amended at 12 F.R. 4077, June 24, 1947; 31 F.R. 7739, June 1, 1966.

§ 239.11 Form S–1, registration statement under the Securities Act of 1933.

This form shall be used for registration under the Securities Act of 1933 of securities of all issuers for which no other form is authorized or prescribed, except that this form shall not be used for securities of foreign governments or political subdivisions thereof.

§ 239.12 Form S–2, for shares of certain corporations in the development stage.

This form shall be used for registration of shares of stock of any corporation which are to be sold to the public for cash, if such corporation—

(a) Is not an insurance, investment, or mining company;

(b) Has not had any substantial gross returns from the sale of products or services, or any substantial net income from any source, for any fiscal year ended during the past 5 years; and

(c) Has not succeeded and does not intend to succeed to any business which has had any substantial gross returns from the sale of products or services, or any substantial net income from any source, for any fiscal year ended during the past 5 years; and

(d) Does not have and does not intend to have any subsidiaries other than inactive subsidiaries with no more than nominal assets.

NOTE: Form S–2 was revised, 22 F.R. 6885, Aug. 27, 1957.

§ 239.13 Form S–3, for shares of mining corporation in the development stage.

This form shall be used for registration of shares of stock of any corporation which is engaged or intends to engage primarily in the exploration, development or exploitation of mineral deposits (other than oil or gas), if the shares being registered are to be sold to the public for cash and if the following conditions are met:

(a) The aggregate gross receipts of the registrant from the sale of its products during the past 5 years have not exceeded the aggregate amount of its exploration, development and operating expenses for that period, exclusive of expenditures and liabilities incurred for plants and major equipment;

(b) The registrant has not succeeded and does not intend to succeed to any business the aggregate gross receipts of which from the sale of its products during the past 5 years have exceeded the aggregate amount of its exploration, development and operating expenses for that period, exclusive of expenditures and liabilities incurred for plants or major equipment; and

(c) The registrant does not have and does not intend to have any subsidiaries other than inactive subsidiaries with no more than nominal assets.

NOTE: Form S–3 was revised, 22 F.R. 6886, Aug. 27, 1957.

§ 239.14 Form S–4, for closed-end management investment companies registered on Form N–8B–1.

Form S–4 shall be used for registration under the Securities Act of 1933 of securities of all closed-end management investment companies registered under the Investment Company Act of 1940 on Form N–8B–1 (§ 274.11 of this chapter).

NOTE: Form S–4 was revised, 21 F.R. 8569, Nov. 8, 1956, and subsequently amended at 22 F.R. 8979, Nov. 8, 1957.

§ 239.15 Form S–5, for open-end management investment companies registered on Form N–8B–1.

This form shall be used for registration under the Securities Act of 1933 of securities of any open-end management investment company registered under the Investment Company Act of 1940 on Form N–8B–1 (§ 274.11 of this chapter).

NOTE: Form S–5 was revised, 18 F.R. 8574, Dec. 19, 1953, and subsequently amended at 22 F.R. 8979, Nov. 8, 1957.

§ 239.16 Form S–6, for unit investment trusts registered on Form N–8B–2.

This form may be used for registration under the Securities Act of 1933 of securities of any unit investment trust registered under the Investment Company Act of 1940 on Form N–8B–2 (§ 274.12 of this chapter).

NOTE: Form S–6 was amended at 31 F.R. 7739, June 1, 1966.

§ 239.16b Form S–8, for registration under the Securities Act of 1933 of securities to be offered to employees pursuant to certain plans.

Any issuer which at the time of filing a registration statement on this form is required to file reports pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934 may use this form for registration under the Securities Act of 1933 of the following securities:

(a) Securities of such issuer to be offered to its employees, or to employees of its subsidiaries, pursuant to a stock purchase, savings or similar plan which meets the following conditions:

(1) Periodic cash payments are made, or periodic payroll deductions are authorized, by participating employees in an amount not to exceed a specified percentage of the employee's compensations or a specified maximum annual amount;

(2) Contributions are made by the employer in cash, securities of the issuer or other substantial benefits, including the offering of securities at a discount from the market value thereof or the payment of expenses of the plan, in accordance with a specified formula or arrangement;

(3) Securities purchased with funds of the plan are acquired in amounts which, at the time of the payment of the purchase price, do not exceed the funds deposited or otherwise available for such payment: *Provided*, That such purchases are made periodically, or from time to time upon a reasonably current basis, and at prices not in excess of the current market price at the time of purchase;

(4) Prior to the time the employee becomes entitled to withdraw all funds or securities allocable to his account, he may withdraw at least that portion of the cash and securities in his account representing his contributions.

(b) Interests in the above plan, if such interests constitute securities and are required to be registered under the Act.

(c) Stock to be offered pursuant to "qualified," or "employee stock purchase plan" stock options as those terms are defined in sections 422 and 423 of the Internal Revenue Code of 1954, as amended, or "restricted stock options" as defined in section 424(b) thereof, provided, however, that for the purposes of this paragraph an option which meets all of the conditions of that section other than the date of issuance shall be deemed to be "restricted stock options."

NOTE: Form S–8 was amended at 29 F.R. 16857 eff. Nov. 20, 1964, for registration of restricted stock options, and was amended at 31 F.R. 7740 eff. May 24, 1966 as to Calculation Table.

§ 239.17 Form S–10, for oil or gas interests or rights.

This form shall be used for registration of landowners' royalty interests, overriding royalty interests, participating in-

terests, working interests, oil or gas payments, oil or gas fee interests, oil or gas leasehold interests, and other producing or nonproducing oil or gas interests or rights.

§ 239.18 Form S–11, for registration under the Securities Act of 1933 of securities of certain real estate companies.

This form shall be used for registration under the Securities Act of 1933 of (a) securities issued by real estate investment trusts, as defined in Section 856 of the Internal Revenue Code, or (b) securities issued by other issuers whose business is primarily that of acquiring and holding for investment real estate or interests in real estate or interests in other issuers whose business is primarily that of acquiring and holding real estate or interests in real estate for investment. This form shall not be used, however, by any issuer which is an investment company registered or required to register under the Investment Company Act of 1940.

[29 F.R. 12685, Sept. 9, 1964]

§ 239.19 Form S–12, for the registration of American Depositary Receipts issued against outstanding foreign securities.[1]

(a) This form shall be used by an issuer as defined below for registration under the Securities Act of 1933 of American Depositary Receipts issued against securities of foreign issuers deposited or to be deposited with an American depositary (whether physically held by or for the account of such depositary in America or abroad), provided: (1) that the holder of the receipts may withdraw the deposited securities at any time subject only (i) to temporary delays caused by closing of transfer books or the deposit of shares in connection with voting at shareholders' meetings, or the payment of dividends, (ii) to the payment of fees, taxes, and similar charges and (iii) to compliance with any laws or governmental regulations relating to the withdrawal of deposited securities; and (2) that the deposited securities, if sold in the United States or its territories, would not be subject to the registration provisions of the Securities Act of 1933.

(b) Where no person or persons perform the acts and assume the duties of depositary or manager pursuant to the provisions of the trust or other agreement or instrument under which the receipts are to be issued, the entity created by the agreement for the issuance of the American Depositary Receipts (or any corporation or trust organized to act only as a conduit in connection with the deposit of the underlying securities pursuant to such an agreement) shall be deemed to be the issuer of the American Depositary Receipts for all purposes of this form and the Act.

(c) Notwithstanding the fact that the depositary may sign the registration statement in the name of such issuer, the depositary itself shall not be deemed an issuer, a person signing the registration statement, or a person controlling such issuer.

[20 F.R. 8986, Aug. 27, 1967]

NOTE: Form S–12 was amended at 26 F.R. 1757, Mar 1, 1961; 31 F.R. 7740, June 1, 1966.

§ 239.22 Form S–9, for the registration of certain debt securities.

This form may be used for registration under the Securities Act of 1933 of nonconvertible, fixed-interest debt securities of an issuer which is required to file reports pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934, if the terms and conditions set forth in the form are met.

[19 F.R. 4630, July 28, 1954]

NOTE: Form S–9 was amended at 19 F.R. 6730, Oct. 20, 1954; 21 F.R. 9643, Dec. 12, 1956; 25 F.R. 6431, July 8, 1960.

§ 239.23 Form S–14, for simplified registration procedure for securities in certain transactions under Rule 133.

Notwithstanding the rule as to the use of any other registration form, Form S–14 may be used for registration under the Securities Act of 1933 of securities issued in a transaction specified in paragraph (a) of Rule 133 and which may be offered to the public by underwriters as defined in paragraphs (b) and (c) of such rule, if the registrant was subject to, and solicited proxies from its stockholders with respect to such transaction in accordance with, the provisions of Regulation 14A under the Securities Exchange Act of 1934. Issuers not meeting the foregoing conditions should use the form otherwise appropriate for registration.

[24 F.R. 5900, July 23, 1959]

§ 239.24 Form N–5, form for registration of small business investment company under the Securities Act of 1933 and the Investment Company Act of 1940.

This form shall be used for registration under the Securities Act of 1933 of securities issued by any small business investment company which is registered under the Investment Company Act of 1940, and which is licensed under the Small Business Investment Company Act of 1958 or which has received the preliminary approval of the Small Business Administration and has been notified by the Administration that it may submit a license application. This form may also be used for the registration statement of such company pursuant to section 8(b) of the Investment Company Act of 1940. The initial registration of such company on this form will be deemed to be filed under both the Securities Act of 1933 and the Investment Company Act of 1940 unless it is indicated that the filing is made only for the purpose of one of such acts. (Same as § 274.5 of this chapter.)

[Adopted 23 F.R. 10487, Dec. 30, 1958; restated 30 F.R. 3313, Mar. 11, 1965]

§ 239.25 Form S–13, for registration under the Securities Act of 1933 of voting trust certificates.

(a) This form shall be used for the registration of voting trust certificates under the Securities Act of 1933.

[31 F.R. 4341, Mar. 12, 1966]

§ 239.26 Form S–7, for registration under the Securities Act of 1933 of securities of certain issuers to be offered for cash.

Any registrant which meets the following conditions may use this form for registration under the Securities Act of 1933 of any securities which are offered for cash by or on behalf of the registrant or any other person, in a rights offering or otherwise:

(a) The registrant meets either of the following conditions:

(1) It has a class of equity securities registered pursuant to section 12(b) of the Securities Exchange Act of 1934; or

(2) It is organized under the laws of the United States or any State or Territory or the District of Columbia, has its principal business operations in the United States or its Territories and has a class of equity securities registered pursuant to section 12(g) of the above Act.

(b) The registrant has been subject to and has complied in all respects, including timeliness, with the requirements of sections 13 and 14 of the Securities Exchange Act of 1934 for a period of at least 5 fiscal years immediately preceding the filing of the registration statement on this form.

(c) The registrant has been engaged in business of substantially the same general character since the beginning of the last 5 fiscal years.

(d) A majority of the existing board of directors of the registrant have been directors of the registrant during each of the last 3 fiscal years.

(e) The registrant and its subsidiaries have not during the past ten years defaulted in the payment of any dividend or sinking fund installment on preferred stock, or in the payment of any principal, interest or sinking fund installment on any indebtedness for borrowed money, or in the payment of rentals under long term leases.

(f) The registrant and its consolidated subsidiaries had sales or gross revenues of at least $50 million for the last fiscal year and a net income, after taxes but before extraordinary items net of tax effect, of at least $2,500,000 for the last fiscal year, and of at least $1 million for each of the preceding 4 fiscal years.

(g) If the securities to be registered are common stock or securities convertible into common stock, the registrant earned in each of the last 5 fiscal years any dividends paid in each such year on all classes of securities. If the registrant paid a stock dividend in any of such fiscal years, the aggregate amount transferred from surplus to capital in respect of each such dividend was charged only to the earned surplus account and was equal to the aggregate fair

[1] Table for calculation of registration fee, on facing page of Form S–12, amended, eff. May 24, 1966, 31 F.R. 7740.

market value of the stock issued as such dividend.

[32 F.R. 17934, Dec. 15, 1967]

Subpart B—Forms Pertaining to Exemptions

§ 239.90 Form 1–A, notification under Regulation A.

This form shall be used for filing of a notification under § 230.255 of Regulation A (§§ 230.251—230.262 of this chapter).

[21 F.R. 5743, Aug. 1, 1956; amended 22 F.R. 6886, Aug. 27, 1957; 23 F.R. 4455, June 20, 1958]

§ 239.91 Form 2–A, report pursuant to Rule 260 of Regulation A.

This form shall be used for report of sales pursuant to Rule 260 of Regulation A (§ 230.260 of this chapter).

[21 F.R. 5744, Aug. 1, 1956]

§ 239.92 Form 3–A, irrevocable appointment by an individual of agent for service of process, pleadings, and other papers pursuant to Rule 262 of Regulation A.

This form shall be used for irrevocable appointment by an individual of an agent for service of process, pleadings, and other papers, pursuant to Rule 262 of Regulation A (§ 230.262 of this chapter).

[21 F.R. 5745, Aug. 1, 1956]

§ 239.93 Form 4–A, irrevocable appointment by a corporation (or association or other form of organization) of agent for service of process, pleadings, and other papers, pursuant to Rule 262 of Regulation A.

This form shall be used for irrevocable appointment by a corporation (or an association or other form of organization) of an agent for service of process, pleadings, and other papers, pursuant to Rule 262 of Regulation A (§ 230.262 of this chapter).

[21 F.R. 5746, Aug. 1, 1956]

§ 239.94 Form 5–A, certificate of resolution authorizing irrevocable appointment by a corporation (or association or other form of organization) of agent for service of process, pleadings, and other papers, pursuant to Rule 262 of Regulation A.

This form shall be used for the certificate of resolution authorizing the irrevocable appointment by a corporation (or association or other form of organization) of an agent for service of process, pleadings, and other papers, pursuant to Rule 262 of Regulation A (§ 230.262 of this chapter).

[21 F.R. 5746, Aug. 1, 1956]

§ 239.95 Form 6–A, irrevocable appointment by partnership of agent for service of process, pleadings, and other papers, pursuant to Rule 262 of Regulation A.

This form shall be used for irrevocable appointment by a partnership of an agent for service of process, pleadings, and other papers, pursuant to Rule 262 of Regulation A (§ 230.262 of this chapter).

[21 F.R. 5747, Aug. 1, 1956]

§§ 239.96–239.100 [Reserved]

§ 239.101 Schedules and forms for offering sheets pertaining to fractional undivided interests in oil or gas rights offered pursuant to exemption under Regulation B.

An offeror of fractional undivided interests in oil or gas rights, defined in Rule 300 (§ 230.300 of this chapter) pursuant to the exemption under Regulation B (§§ 230.300–230.356 of this chapter) shall file an offering sheet upon the applicable schedule listed below, and a report of the sale of such interests on the applicable form listed below, as required by Rules 320 and 322 of Regulation B (§§ 230.320, 230.322 of this chapter):

(a) *Schedule A.* For producing landowners' royalty interests.

(b) *Schedule B.* For nonproducing landowners' royalty interests.

(c) *Schedule C.* For producing overriding interests, working interests, or participating interests.

(d) *Schedule D.* For nonproducing overriding interests, working interests, or participating interests.

(e) *Schedule E.* For oil payments, gas payments, or oil and gas payments to be made from tracts represented to be producing at the time of the offering.

(f) *Schedule F.* For oil payments, gas payments, or oil and gas payments to be made from tracts represented to be nonproducing at the time of the offering.

(g) *Form 1–G.* For reports pursuant to Rule 320 (§ 230.320 of this chapter) of the sale of an interest in an oil or gas right.

(h) *Form 2–G.* For reports pursuant to Rule 322 (§ 230.322 of this chapter) of the sale of an interest in an oil or gas right.

[Reg. B, 2 F.R. 1076, May 6, 1937, as amended at 4 F.R. 2019, May 13, 1939; 8 F.R. 8527, June 22, 1943]

§§ 239.102–239.199 [Reserved]

§ 239.200 Form 1–E, notification under Regulation E.

This form shall be used for notification pursuant to Rule 604 (230.604 of this chapter) of Regulation E (§§ 230.601–230.610a of this chapter) by a small business investment company described in Rule 602 (§ 230.602 of this chapter).

[24 F.R. 6387, Aug. 8, 1959]

§ 239.201 Form 2–E, report of sales pursuant to Rule 609 of Regulation E.

This form shall be used for report of sales of securities under Regulation E (§§ 230.601–230.610a of this chapter) by a small business investment company described in Rule 602 (§ 230.602 of this chapter) as required by Rule 609 of Regulation E (§ 230.609 of this chapter).

[24 F.R. 6388, Aug. 8, 1959]

§§ 239.202–239.299 [Reserved]

§ 239.300 Form 1–F, notification under Regulation F.

This form shall be used for notification pursuant to Rule 652 (§ 230.652 of this chapter) of Regulation F (§§ 230.651–230.656 of this chapter) in connection with sales of assessable stock.

[24 F.R. 6387, Aug. 8, 1959]

Subpart C—Consents to Service of Process

§ 239.507 Form 7–M, consent to service of process by an individual nonresident broker-dealer.

This form shall be filed pursuant to Rule 172 (§ 230.172 of this chapter) by each individual nonresident broker-dealer registered or applying for registration. (Same as § 249.507 of this chapter.)

[18 F.R. 2576, May 2, 1953, as amended at 23 F.R. 9691, Dec. 16, 1958; 29 F.R. 16982, Dec. 11, 1964; redesignated 30 F.R. 11851, Sept. 16, 1965]

§ 239.508 Form 8–M, consent to service of process by a corporation which is a nonresident broker-dealer.

This form shall be filed pursuant to Rule 172 (§ 230.172 of this chapter) by each corporate nonresident broker-dealer registered or applying for registration. (Same as § 249.508 of this chapter.)

[18 F.R. 2576, May 2, 1953, as amended at 23 F.R. 9691, Dec. 16, 1958; 29 F.R. 16982, Dec. 11, 1964; redesignated 30 F.R. 11851, Sept. 16, 1965]

§ 239.509 Form 9–M, consent to service of process by a partnership nonresident broker-dealer.

This form shall be filed pursuant to Rule 172 (§ 230.172 of this chapter) by each partnership nonresident broker-dealer registered or applying for registration. (Same as § 249.509 of this chapter.)

[18 F.R. 2576, May 2, 1953, as amended at 23 F.R. 9691, Dec. 16, 1958; 29 F.R. 16982, Dec. 11, 1964; redesignated 30 F.R. 11851, Sept. 16, 1965]

§ 239.510 Form 10–M, consent to service of process by a nonresident general partner of a broker-dealer firm.

This form shall be filed pursuant to Rule 172 (§ 230.172 of this chapter) by each nonresident general partner of a broker-dealer firm registered or applying for registration. (Same as § 249.510 of this chapter.)

[18 F.R. 2576, May 2, 1953, as amended at 23 F.R. 9691, Dec. 16, 1958; 29 F.R. 16982, Dec. 11, 1964; redesignated 30 F.R. 11851, Sept. 16, 1965]

§§ 239.511–239.513 [Reserved]

§ 239.514 Form 4–R, irrevocable appointment of agent for service of process, pleadings and other papers by individual nonresident investment adviser.

This form shall be filed pursuant to Rule 173 (§ 230.173 of this chapter) by

each individual nonresident investment adviser who is registered or applying for registration with the Commission as an investment adviser. (Same as § 279.4 of this chapter.)

[19 F.R. 4301, July 14, 1954]

§ 239.515 Form 5–R, irrevocable appointment of agent for service of process, pleadings and other papers by corporation nonresident investment adviser.

This form shall be filed pursuant to Rule 173 (§ 230.173 of this chapter) by each corporation nonresident investment adviser, and by each unincorporated nonresident investment adviser not organized as a partnership, which is registered or applying for registration with the Commission as an investment adviser. (Same as § 279.5 of this chapter.)

[19 F.R. 4301, July 14, 1954]

§ 239.516 Form 6–R, irrevocable appointment of agent for service of process, pleadings and other papers by partnership nonresident investment adviser.

This form shall be filed pursuant to Rule 173 (§ 230.173 of this chapter) by each partnership nonresident investment adviser which is registered or applying for registration with the Commission as an investment adviser. (Same as § 279.6 of this chapter.)

[19 F.R. 4301, July 14, 1954]

§ 239.517 Form 7–R, irrevocable appointment of agent for service of process, pleadings and other papers by nonresident general partner of investment adviser.

This form shall be filed pursuant to Rule 173 (§ 230.173 of this chapter) by each nonresident general partner of an investment adviser, and by each nonresident "managing agent" of an unincorporated investment adviser as defined in said Rule 173, which is registered or applying for registration with the Commission as investment adviser. (Same as § 279.7 of this chapter.)

[19 F.R. 4301, July 14, 1954]

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

Sec.

Sec.

AUTHORITY: The provisions of this Part 249 issued under secs. 6, 9, 12, 13, 15, 15A, 16, 17, 23, 48 Stat. 885, 889, 892 as amended, 894 as amended, 896 as amended, 897 as amended, 901 as amended, secs. 1, 3, 4, 8, 49 Stat. 1375, 1377, 1379, secs. 1, 2, 5, 52 Stat. 1070, 1075, 1076, sec. 202, 68 Stat. 686, secs. 3, 4, 6, 8, 10, 78 Stat. 565, 569, 570, 580; 15 U.S.C. 78f, 78i, 78l, 78m, 78o, 78o–3, 78p, 78q, 78w.

§ 249.0–1 Incorporation by reference.

(a) The forms prescribed for use under the Securities Exchange Act of 1934, which are identified and described in this part, are hereby incorporated by reference pursuant to 5 U.S.C. 552(a)(1) and 1 CFR Part 20.

(b) Copies of the forms prescribed in this part may be obtained on request addressed to Securities and Exchange Commission, Washington, D.C. 20549. The forms may also be inspected at that address, and at the Commission's regional and branch offices whose addresses appear at § 200.11 of this chapter.

(c) Revisions or amendments of the forms may be issued from time to time by the Securities and Exchange Commission. An historic file of such amendments or revisions is maintained and made available for inspection at the Securities and Exchange Commission, Washington, D.C. 20549.

Subpart A—Forms for Registration or Exemption of, and Notification of Action Taken by, National Securities Exchanges

§ 249.1 Form 1, for application for, or exemption from, registration as a national securities exchange.

This form shall be used for applications for registration or for exemption from registration as a national securities exchange.

NOTE: Form 1 was revised, 14 F.R. 7760, Dec. 29, 1949.

§ 249.1a Form 1–A, for amendments to Form 1.

This form shall be used for amendatory and/or supplementary statements to registration statements of a national securities exchange.

NOTE: Former Form 9 was redesignated as Form 1–A, and § 249.9 was redesignated as § 249.1a, 14 F.R. 7760, Dec. 29, 1949. This form is not related to § 239.90.

§ 249.9a Form 9–A [Rescinded]

§ 249.25 Form 25, for notification of removal from listing and registration of matured, redeemed or retired securities.

This form shall be used by a registered national securities exchange for notification of the removal from listing and registration of matured, redeemed, or retired securities.

[17 F.R. 3623, Apr. 24, 1952]

§ 249.26 Form 26, for notification of the admission to trading of a substituted or additional class of security under Rule 12a–5 [§ 240.12a–5 of this chapter].

This form shall be used by a registered national securities exchange for notification of the admission to trading of a substituted or additional class of security under Rule 12a–5.

[20 FR. 2081, Apr. 2, 1955]

§ 249.27 Form 27, for notification of changes in securities admitted to unlisted trading privileges.

This form shall be used by a registered national securities exchange for notification of changes in securities admitted to unlisted trading privileges.

[20 F.R. 6702, Sept. 13, 1955]

§ 249.28 Form 28, for notification of the termination or suspension of unlisted trading privileges.

This form shall be used by a registered national securities exchange for notification of the termination or suspension of unlisted trading privileges.

[20 F.R. 6702, Sept. 13, 1955]

Subpart B—Forms for Reports To Be Filed by Officers, Directors, and Security Holders

§ 249.103 Form 3, initial statement of beneficial ownership of securities.

This form shall be filed pursuant to Rule 16a–1(a) (§ 240.16a–1(a) of this chapter) for initial statements of beneficial ownership of securities required to be filed pursuant to section 16(a) of the Securities Exchange Act of 1934.

[26 F.R. 2466, Mar. 28, 1961]

§ 249.104 Form 4, statement of changes in beneficial ownership of securities.

This form shall be filed pursuant to Rule 16a–1(a) (§ 240.16a–1(a) of this chapter) for statements of changes in beneficial ownership of securities required to be filed pursuant to section 16(a) of the Securities Exchange Act of 1934.

[26 F.R. 2466, Mar. 23, 1961]

Subpart C—Forms for Applications for Registration of Securities on National Securities Exchanges and Similar Matters

§ 249.208 [Reserved]

§ 249.208a Form 8–A, for registration of certain classes of securities pursuant to section 12 (b) or (g) of the Securities Exchange Act of 1934.

This form may be used for registration of the following securities pursuant to the Securities Exchange Act of 1934:

(a) For registration on a national securities exchange pursuant to section 12(b) of the Act of any class of securities of an issuer which has one or more other classes of securities so registered on the same securities exchange;

(b) For registration pursuant to section 12(g) of the Act of any class of securities of an issuer which has one or more other classes of securities registered pursuant to either section 12 (b) or (g) of the Act.

(c) For registration pursuant to section 12(g) of the Act of any class of securities of an issuer which has filed under the Securities Act of 1933 a regis-

tration statement which has become effective and is not subject to any proceeding under section 8 of that Act or to an order issued pursuant thereto; *Provided:*

(1) The registration statement on this form will become effective within 1 year after the end of the last fiscal year for which certified financial statements were included in the registration statement under the Securities Act of 1933, or in a posteffective amendment thereto which has become effective; or

(2) The registrant is required to file reports pursuant to section 15(d) of the Securities Exchange Act of 1934 and has filed or concurrently files, an annual report pursuant to such section for the last fiscal year ending prior to the date of filing the registration statement on this form; or

(3) The registrant would be required to file reports pursuant to section 15(d) of the Securities Exchange Act of 1934 but for the first sentence of section 12(f)(6) of that Act and has filed, or concurrently files, an annual report pursuant to section 13 of that Act for the last fiscal year ending prior to the date of filing the registration statement on this form.

(d) For registration pursuant to section 12(g) of the Act of any class of securities of any issuer which (1) has securities listed on an exchange exempted from registration as a national securities exchange, (2) is required by the order exempting such exchange to file with the Commission reports equivalent to those required by section 13 and the rules and regulations thereunder and (3) has filed, or concurrently files, an annual report pursuant to section 13 for the last fiscal year ending prior to the date of filing the registration statement on this form.

[30 F.R. 703, Jan. 22, 1965]

§ 249.208b Form 8–B, for registration of securities of certain successor issuers pursuant to section 12 (b) or (g) of the Securities Exchange Act of 1934.

This form may be used for registration pursuant to section 12 (b) or (g) of the Securities Exchange Act of 1934 of securities of an issuer which has no securities so registered but which has succeeded to an issuer which at the time of the succession had securities so registered, or to such an issuer and one or more other persons, subject to the following conditions: (a) The capital structure and balance sheet of the successor issuer immediately after the succession were substantially the same as those of the single predecessor or, if more than one predecessor, the combined capital structures and balance sheets of all of the predecessors; or (b) proxies were solicited pursuant to Regulation 14A (§ 240.14a–1 et seq. of this chapter) with respect to the succession from the security holders of the predecessor or, if more than one predecessor, from the security holders of at least one such predecessors and copies of the proxy statement used in such solicitation are filed as an exhibit to the registration statement on this form; or (c) if securities issued in connection with the succession have been registered pursuant to the Securities Act of 1933 and copies of the latest effective prospectus meeting the requirements of section 10 of that Act are filed as an exhibit to the registration statement on this form. *Provided, however,* (1) That this form may be used only if the registration statement is filed within 120 days after the date of the succession; and (2) that this form shall not be used for the registration on a national securities exchange pursuant to section 12(b) of the Act of securities of a successor issuer unless its predecessor or, if more than one predecessor at least one of its predecessors, had securities listed and registered on the same exchange at the time of the succession.

[30 F.R. 7566, June 10, 1965]

§ 249.208c Form 8–C, for registration of securities on a national securities exchange pursuant to section 12(b) of the Securities Exchange Act of 1934.

This form may be used for registration pursuant to section 12(b) of the Securities Exchange Act of 1934 of a class of securities on a national securities exchange on which the registrant has no securities registered if any class of securities of the same issuer is so registered on another such exchange or is registered pursuant to section 12(g) of the Act.

[30 F.R. 7568, June 10, 1965]

§ 249.210 Form 10, general form for registration of securities pursuant to section 12 (b) or (g) of the Securities Exchange Act of 1934.

This form shall be used for registration pursuant to section 12 (b) or (g) of the Securities Exchange Act of 1934 of classes of securities of issuers for which no other form is prescribed.

[30 F.R. 3423, Mar. 16, 1965, as amended at 31 F.R. 1063, Jan. 27, 1966]

§ 249.212 Form 12, for issuers which file reports with certain other Federal agencies.

This form may be used for registration pursuant to section 12 (b) or (g) of the Securities Exchange Act of 1934 of securities issued by any issuer which files annual reports with the Federal Power Commission on that Commission's Form No. 1 or Form No. 2 and whose annual report to stockholders for its last 3 fiscal years contained financial statements (other than schedules) prepared and certified substantially in accordance with Regulation S–X (Part 210 of this chapter), any issuer which files annual reports with the Interstate Commerce Commission pursuant to section 20, 220, or 313 of the Interstate Commerce Act or any issuer which files annual reports with the Federal Communications Commission pursuant to section 219 of the Communications Act of 1934.

[30 F.R. 4057, Mar. 27, 1965, as amended at 31 F.R. 1063, Jan. 27, 1966]

§ 249.214 Form 14, for certificates of deposit issued by a committee.

This form shall be used for applications on or after May 10, 1935, for the permanent registration of certificates of deposit issued by a committee.

§ 249.216 Form 16, for registration of voting trust certificates.

This form shall be used for registration of voting trust certificates pursuant to section 12 (b) or (g) of the Securities Exchange Act of 1934.

[30 F.R. 12773, Oct. 7, 1965]

§ 249.218 Form 18, for foreign governments and political subdivisions thereof.

This form shall be used for applications filed on or after July 1, 1935, for the permanent registration of securities of any foreign government or political subdivision thereof: *Provided, however,* That any public corporation or other autonomous entity in the nature of a political subdivision, except a State, province, county, or municipality or similar body politic, may, at its option, use Form 21 in lieu of this form.

NOTE: See note following § 249.220.

§ 249.219 Form 19, for American certificates against foreign issues and for the underlying securities.

This form shall be used for applications filed on or after July 15, 1935, for the permanent registration of American certificates (for example, so-called American depositary receipts for foreign shares or American participation certificates in foreign bonds or notes) issued against securities of foreign issuers deposited with an American depositary (whether physically held by such depositary in America or abroad) and of the foreign securities so deposited.

§ 249.220 Form 20, for registration of securities of foreign private issuers pursuant to Section 12 (b) or (g) of the Securities Exchange Act of 1934.

This form shall be used for registration pursuant to section 12 of the Securities Exchange Act of 1934 of any class of securities of any foreign private issuer: *Provided,* That it shall not be used for registration of any class of securities of any North American or Cuban issuer if (a) the securities are to be registered pursuant to section 12(b) of the Act, or (b) the issuer has had the same or any other class of securities registered pursuant to section 12 of the Act on Form 10 (§ 249.210 of this chapter), or on Form 8–A, 8–B, or 8–C (§ 240.208a, § 240.208b, or § 240.208c) in lieu of Form 10 on or after May 31, 1967, and within 1 year prior to the date on which the registration statement is filed or required to be filed under section 12(g).

NOTE: Form 21 (formerly § 249.221 of this chapter) has been superseded by Form 20 and the latter may be used in lieu thereof. 32 F.R. 7854, May 30, 1967.

Subpart D—Forms for Annual and Other Reports of Issuers Required Under Sections 13 and 15(d) of the Securities Exchange Act of 1934

§ 249.306 Form 6–K, report of foreign issuer pursuant to Rules 13a–16 (§ 240.13a–16 of this chapter) and 15d–16 (§ 240.15d–16 of this chapter) under the Securities Exchange Act of 1934.

This form shall be used by foreign issuers which are required to furnish reports pursuant to Rule 13a–16 (§ 240.13a–16 of this chapter) or 15d–16 (§ 240.15d–16 of this chapter) under the Securities Exchange Act of 1934.

[32 F.R. 7853, May 30, 1967]

§ 249.307 Form 7–K, for quarterly reports of certain real estate companies.

This form shall be used for the quarterly reports of certain real estate companies required by Rules 13a–15 and 15d–15 of the General Rules and Regulations under the Securities Exchange Act of 1934 (§§ 240.13a–15 and 240.15d–15 of this chapter).

[29 F.R. 3359, Mar. 13, 1964]

§ 249.308 Form 8–K, for current reports.

This form shall be used for the current reports required by Rule 13a–11 or Rule 15d–11 (§ 240.13a–11 or § 240.15d–11 of this chapter).

NOTE: Form 8–K was revised 19 F.R. 732, Feb. 6, 1954, and amended 23 F.R. 5561, July 23, 1958.

§ 249.309 Form 9–K, for semiannual reports.

This form shall be used for semiannual reports required by Rule 13a–13 or Rule 15d–13 (§ 240.13a–13 or § 240.15d–13 of this chapter).

[20 F.R. 4817, July 7, 1955]

NOTE: Form 9–K was revised, 25 F.R. 3552, Apr. 23, 1960.

§ 249.310 Form 10–K, annual report pursuant to section 13 or 15d of the Securities Exchange Act of 1934.

This form shall be used for annual reports pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934 for which no other form is prescribed.

[30 F.R. 3430, Mar. 16, 1965, as amended at 31 F.R. 1063, Jan. 27, 1966]

§ 249.311 Form 11–K, for annual reports of employee stock purchase, savings and similar plans pursuant to section 15(d) of the Securities Exchange Act of 1934.

This form shall be used for annual reports pursuant to section 15(d) of the Securities Exchange Act of 1934 with respect to employee stock purchase, savings and similar plans interests in which constitute securities which have been registered under the Securities Act of 1933. Such a report is required to be filed even though the issuer of the securities offered to employees pursuant to the plan also files annual reports pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934. However, attention is directed to Rule 15d–21 (§ 240.15d–21 of this chapter) which provides that in certain cases the information required by this form may be furnished with respect to the plan as a part of the annual report of such issuer.

[27 F.R. 7875, Aug. 9, 1962]

§ 249.312 Form 12–K, annual report for issuers which file reports with certain other federal agencies.

This form may be used for annual reports pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934 by any issuer which files annual reports with the Federal Power Commission on that Commission's Form No. 1 or Form No. 2 and whose annual report to stockholders for its last fiscal year contains financial statements (other than schedules) prepared and certified substantially in accordance with Regulation S–X (Part 210 of this chapter), any issuer which files annual reports with the Interstate Commerce Commission pursuant to section 20, 220 or 313 of the Interstate Commerce Act, or any issuer which files annual reports with the Federal Communications Commission pursuant to section 219 of the Communications Act of 1934.

[30 F.R. 4059, Mar. 27, 1965, as amended at 31 F.R. 1063, Jan. 27, 1966]

§ 249.314 Form 14–K, for certificates of deposit issued by a committee.

This form shall be used for the annual reports of issuers of certificates of deposit issued by a committee.

§ 249.316 Form 16–K, annual report relating to voting trust certificates.

This form shall be used for annual reports pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934 relating to voting trust certificates.

[As revised 30 F.R. 12775, Oct. 7, 1965]

§ 249.318 Form 18–K, for foreign governments and political subdivisions thereof.

This form shall be used for the annual reports of foreign governments or political subdivisions thereof, except any public corporation or other autonomous entity in the nature of a political subdivision, other than a State, province, county, or municipality or similar body politic which, at its option, has registered its securities on Form 21 in lieu of Form 18 (§ 249.218).

NOTE: Form 21 has been superseded by Form 20 and the latter may be used in lieu of the former. See 32 F.R. 7854, May 30, 1967.]

§ 249.319 Form 19–K, for issuers of American certificates against foreign issues and the underlying securities.

This form shall be used for the annual reports of issuers of American certificates (for example, so-called American depositary receipts for foreign shares or American participation certificates in foreign bonds or notes) issued against securities of foreign issuers deposited with an American depositary (whether physically held by such depositary in America or abroad) and of the foreign securities so deposited.

§ 249.320 Form 20–K, for annual reports of foreign private issuers filed pursuant to sections 13 and 15(d) of the Securities Exchange Act of 1934.

(a) This form shall be used for annual reports of foreign private issuers filed under section 13 or 15(d) of the Securities Exchange Act of 1934 pursuant to Rule 13a–1 (§ 240.13a–1 of this chapter) or 15d–1 (§ 240.15d–1 of this chapter), except that it shall not be used by any North American or Cuban issuer—

(1) Which has any class of securities registered pursuant to section 12 of the Act on Form 10 (§ 249.210), or on Form 8–A, 8–B, or 8–C (§ 249.208a, § 249.208b, or § 249.208c) in lieu of Form 10;

(2) Which is filing the report pursuant to section 15(d) of the Act;

(3) Whose obligation to file reports pursuant to 15(d) of the Act is suspended as a result of the registration of a class of securities pursuant to section 12(g) of the Act; or

(4) Which has registered securities under section 12(g) of the Act as a result of termination of the exemption provided by Rule 12g3–2(d) (§ 240.12g3–2(d) of this chapter).

(b) Reports on this form shall be filed within 6 months after the end of the fiscal year covered by such report.

NOTE: This form has superseded Form 21–K and may be used in lieu thereof; see 32 F.R. 7851, May 30, 1967.

§ 249.330 Form N–1R, Annual Report of Registered Management Investment Company under the Investment Company Act of 1940 and the Securities Exchange Act of 1934.

This form shall be used for annual reports to be filed, pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934 and pursuant to section 30 of the Investment Company Act of 1940, by all management investment companies registered under the latter act, except those which issue periodic payment plan certificates and small business investment companies licensed under the Small Business Investment Act of 1958 which file annual reports with the Commission on Form N–5R (described in § 274.105 of this chapter). (Same as § 274.101 of this chapter.)

[Formerly Form N–30A–1, 7 F.R. 4528, June 18, 1942; revised 30 F.R. 2136, Feb. 17, 1965; amended 30 F.R. 3312, Mar. 11, 1965; 33 F.R. 5749, Apr. 13, 1968]

§ 249.331 Form N–1Q, quarterly report of management investment companies registered under the Investment Company Act of 1940.

This form shall be used for quarterly reports of management investment companies registered under the Investment Company Act of 1940, except those which issue periodic payment plan certificates. (Same as § 274.106 of this chapter.)

[Adopted to replace Form N–30B–1, 32 F.R. 17583, Dec. 8, 1967]

§ 249.332 Form N–5R, for annual reports of small business investment companies.

This form shall be used for annual reports made pursuant to section 30 of the Investment Company Act of 1940 and section 13 or 15(d) of the Securities Exchange Act of 1934 by all small business investment companies licensed under the Small Business Investment Act of 1958. (Same as § 274.105 of this chapter.)

[Adopted 25 F.R. 7368, Aug. 5, 1960; redesignated 30 F.R. 3312, Mar. 11, 1965]

§ 249.402 Form 2–MD, for investment trusts having securities registered on Form C–1.[1]

This form shall be used for annual reports, pursuant to section 15(d) of the Securities Exchange Act of 1934, relating to securities of unincorporated investment trusts of the fixed or restricted management type, having a depositor or sponsor but not having a board of directors or persons performing similar functions, except that this form shall not be used by any trust for which Form N–1R, N–30A–2, or N–30A–3 (§§ 249.330, 249.442, 249.443 of this chapter) is prescribed.

§ 249.404 Forms 4–MD, for certificates of deposit.

This form shall be used for annual reports, pursuant to section 15(d) of the Securities Exchange Act of 1934, relating to certificates of deposit issued by a Committee.

§ 249.441 [Reserved]

§ 249.442 Form N–30A–2, for unit investment trusts currently issuing securities.

This form shall be used for annual reports pursuant to section 15(d) of the Securities Exchange Act of 1934 of unit investment trusts, registered under the Investment Company Act of 1940, which are currently issuing securities, including unit investment trusts which are issuers of periodic payment plan certificates. (Same as 17 CFR 274.102.)

§ 249.443 Form N–30A–3, for unincorporated management investment companies currently issuing periodic payment plan certificates.

This form shall be used for annual reports pursuant to section 15(d) of the Securities Exchange Act of 1934 for unincorporated management investment companies, registered under the Investment Company Act of 1940, currently issuing periodic payment plan certificates. (Same as § 274.103 of this chapter.)

§§ 249.444–249.449 [Reserved]

§ 249.450 Form U5S for annual reports of holding companies.

This form shall be filed by a registered public utility holding company pursuant to Rule 1 (§ 250.1) of this chapter), on or before May 1st in the year following that in which it filed its registration statement, and in every succeeding year. (Same as § 259.5s of this chapter.)

[19 F.R. 1819, Apr. 2, 1954, amended 26 F.R. 8669, Sept. 16, 1961]

Subpart E—Forms for Amendments to Registration Statements and Reports of Issuers

§ 249.460 Form 8, for amendments to applications for registration statements, or amendments to annual reports and other reports.

This form shall be used for amendments to applications for registration of securities pursuant to section 12 of the Securities Exchange Act of 1934, or amendments to annual reports and other reports filed pursuant to sections 13 and 15(d) of that act.

[14 F.R. 5428, Sept. 1, 1949]

Subpart F—Forms for Registration of Brokers and Dealers Transacting Business on Over-the-Counter Markets

§ 249.501 Form BD, for application for registration as a broker and dealer or to amend or supplement such an application.

This form shall be used for application for registration as a broker-dealer under the Securities Exchange Act of 1934, or to amend such application.

[29 F.R. 12961, Sept. 16, 1964; 33 F.R. 8540, June 11, 1968]

§ 249.501a Form BDW, notice of withdrawal from registration as broker-dealer pursuant to § 240.15b6–1 of this chapter.

This form shall be used for filing a notice of withdrawal as broker-dealer pursuant to Rule 15b6–1 (§ 240.15b6–1 of this chapter).

[31 F.R. 5444, Apr. 6, 1966]

§ 249.502 Form SECO–2, Personnel form, to be filed by registered brokers and dealers not members of a registered national securities association, for associated persons of such brokers and dealers.

This form shall be filed pursuant to Rule 15b8–1 (§ 240.15b8–1 of this chapter), accompanied by the prescribed fee, by every registered broker-dealer not a member of a registered national securities association, as a personnel form for every associated person of such broker-dealer.

[30 F.R. 11673, Sept. 11, 1965]

§ 249.502a Form SECO–2F, certification for associated persons engaged in securities activities outside the jurisdiction of the United States.

This form shall be filed pursuant to paragraph (c)(2) of Rule 15b9–1 (§ 240.15b9–1(c)(2) of this chapter) by every registered broker-dealer not a member of a registered national securities association, as a certification for every associated person of such broker-dealer who confines his activities to areas outside the jurisdiction of the United States and who does not deal or act for any U.S. resident or national.

[33 F.R. 7075, May 11, 1968]

§ 249.503 Form SECO–3, Assessment and information form for registered brokers and dealers not members of a registered national securities association.

This form shall be filed pursuant to Rule 15b8–1 (§ 240.15b8–1 of this chapter), accompanied by the assessment fee required under the temporary fee schedule for fiscal year ended June 30, 1965, on or before October 31, 1965, by every registered broker-dealer not a member of a registered national securities association.

[30 F.R. 11673, Sept. 11, 1965]

§ 249.504 Form SECO–4, 1966 assessment and information form for registered brokers and dealers not members of a registered national securities association.

This form shall be filed pursuant to Rule 15b8–2 (§ 240.15b8–2 of this chapter), accompanied by the assessment fee required thereunder for the fiscal year ended June 30, 1966, on or before August 15, 1966 by every registered broker-dealer not a member of a registered national securities association.

[31 F.R. 9104, July 2, 1966]

§ 249.504a Form SECO–4–67, 1967 assessment and information form for registered brokers and dealers not members of a registered national securities association.

This form shall be filed pursuant to Rule 15b9–1 (§ 240.15b9–1 of this chapter), accompanied by the assessment fee required thereunder for the fiscal year ended June 30, 1967, on or before June 30, 1967 by every registered broker-dealer not a member of a registered national securities association.

[32 F.R. 7849, May 30, 1967]

§ 249.504b Form SECO–4–68, 1968 assessment and information form for registered brokers and dealers not members of a registered national securities association.

This form shall be filed pursuant to Rule 15b9–2 (§ 240.15b9–2 of this chapter), accompanied by the annual assessment fee required thereunder for the fiscal year ended June 30, 1968, on or before June 1, 1968 by every registered broker-dealer not a member of a registered national securities association.

[33 F.R. 7075, May 11, 1968]

§ 249.505 Form SECO–5, initial assessment and information form for registered brokers and dealers not members of a registered national securities association.

This form shall be filed pursuant to Rule 15b9–1 (§ 240.15b9–1 of this chapter) accompanied by the initial assessment fee required thereunder, as the initial assessment and information form, by every registered broker-dealer who does not make a bona fide application

[1] Form C–1 was rescinded on Aug. 19, 1947 as obsolete since it was replaced by later forms for such issuers; 12 F.R. 5725, Aug. 26, 1947.

for membership in a registered national securities association within 45 days after the effective date of his registration with the Commission, or whose membership in a registered national securities association is terminated and who continues to be registered with the Commission for a period of 45 days after such termination of membership.

[31 F.R. 9104, July 2, 1966, as amended 33 F.R. 7075, May 11, 1968]

§ 249.507 Form 7–M, consent to service of process by an individual nonresident broker-dealer.

This form shall be filed pursuant to Rule 15b1–5 (§ 240.15b1–5 of this chapter) by each individual nonresident broker-dealer registered or applying for registration pursuant to section 15 of the Act.

[18 F.R. 2576, May 2, 1953, as amended at 23 F.R. 9691, Dec. 16, 1958; 29 F.R. 16982, Dec. 11, 1964; redesignated 30 F.R. 11851, Sept. 16, 1965]

§ 249.508 Form 8–M, consent to service of process by a corporation which is a nonresident broker-dealer.

This form shall be filed pursuant to Rule 15b1–5 (§ 240.15b1–5 of this chapter) by each corporate nonresident broker-dealer registered or applying for registration pursuant to section 15 of the Act.

[18 F.R. 2576, May 2, 1953, as amended at 23 F.R. 9691, Dec. 16, 1958; 29 F.R. 16982, Dec. 11, 1964; redesignated 30 F.R. 11851, Sept. 16, 1965]

§ 249.509 Form 9–M, consent to service of process by a partnership nonresident broker-dealer.

This form shall be filed pursuant to Rule 15b1–5 (§ 240.15b1–5 of this chapter) by each partnership nonresident broker-dealer registered or applying for registration pursuant to section 15 of the Act.

[18 F.R. 2576, May 2, 1953, as amended at 23 F.R. 9691, Dec. 16, 1958; 29 F.R. 16982, Dec. 11, 1964; redesignated 30 F.R. 11851, Sept. 16, 1965]

§ 249.510 Form 10–M, consent to service of process by a nonresident general partner of a broker-dealer firm.

This form shall be filed pursuant to Rule 15b1–5 (§ 240.15b1–5 of this chapter) by each nonresident general partner of a broker-dealer firm registered or applying for registration pursuant to section 15 of the Act.

[18 F.R. 2576, May 2, 1953, as amended at 23 F.R. 9691, Dec. 16, 1958; 29 F.R. 16982, Dec. 11, 1964; redesignated 30 F.R. 11851, Sept. 16, 1965]

§ 249.514 Form 4–R, irrevocable appointment of agent for service of process, pleadings and other papers by individual nonresident investment adviser.

This form shall be filed pursuant to Rule 0–7 (§ 240.0–7 of this chapter) by each individual nonresident investment adviser who is registered or applying for registration with the Commission as an investment adviser. (Same as § 279.4 of this chapter.)

[19 F.R. 4301, July 14, 1954]

§ 249.515 Form 5–R, irrevocable appointment of agent for service of process, pleadings and other papers by corporation nonresident investment adviser.

This form shall be filed pursuant to Rule 0–7 (§ 240.0–7 of this chapter) by each corporation nonresident investment adviser, and by each unincorporated nonresident investment adviser not organized as a partnership, which is registered or applying for registration with the Commission as an investment adviser. (Same as § 279.5 of this chapter.)

[19 F.R. 4301, July 14, 1954]

§ 249.516 Form 6–R, irrevocable appointment of agent for service of process, pleadings and other papers by partnership nonresident investment adviser.

This form shall be filed pursuant to Rule 0–7 (§ 240.0–7 of this chapter) by each partnership nonresident investment adviser which is registered or applying for registration with the Commission as an investment adviser. (Same as § 279.6 of this chapter.)

[19 F.R. 4301, July 14, 1954]

§ 249.517 Form 7–R, irrevocable appointment of agent for service of process, pleadings and other papers by nonresident general partner of investment adviser.

This form shall be filed pursuant to Rule 0–7 (§ 240.0–7 of this chapter) by each nonresident general partner of an investment adviser, and by each nonresident "managing agent" of an unincorporated investment adviser as defined in said Rule 0–7, which is registered or applying for registration with the Commission as investment adviser. (Same as § 279.7 of this chapter.)

[19 F.R. 4301, July 14, 1954]

Subpart G—Forms for Reports To Be Made by Certain Exchange Members, Brokers, and Dealers

§ 249.617 Form X–17A–5—Information required of certain members, brokers, and dealers pursuant to section 17 of the Securities Exchange Act of 1934 and Rule 17a–5 (§ 240.17a–5 of this chapter) thereunder.

This form shall be used by every member, broker or dealer required to file reports under Rule 17a–5(a), (§ 240.17a–5 of this chapter).

[32 F.R. 14018, Oct. 10, 1967]

Subpart H—Forms for Reports as to Stabilization

§ 249.709 [Reserved]

§ 249.717 Form X–17A–1, for reports of stabilizing activities.

This form is to be used in reporting certain stabilizing activities pursuant to Rules X–17A–2 (17 CFR 240.17a–2 of this chapter).

[Revised, 23 F.R. 976, Feb. 14, 1958.]

Subpart I—Forms for Registration of and Reporting by National Securities Associations and Affiliated Securities Associations

§ 249.801 Form X–15AA–1, for application for registration as a national securities association or affiliated securities association.

This form shall be filed as an application for registration as a national securities association or as an affiliated securities association pursuant to Rule 15Aa–1 (§ 240.15Aa–1 of this chapter).

[7 F.R. 991, Feb. 14, 1942, as amended 14 F.R. 885, Feb. 26, 1949; 18 F.R. 6259, Oct. 1, 1953]

§ 249.802 Form X–15AJ–1, for amendatory and/or supplementary statements to registration statement of a national securities association or an affiliated securities association.

This form shall be filed pursuant to Rule 15Aj–1 (§ 240.15Aj–1 of this chapter) as amendatory and/or supplementary statements to registration statement of a national securities association or an affiliated securities association.

[4 F.R. 3134, July 14, 1939]

§ 249.803 Form X–15AJ–2, for annual consolidated supplement of national securities association or an affiliated securities association.

This form shall be filed pursuant to Rule 15Aj–1 (§ 240.15Aj–1 of this chapter) for the annual consolidated supplement to registration statement of a national securities association or an affiliated securities association.

[4 F.R. 3135, July 14, 1939, as amended 5 F.R. 1030, Mar. 13, 1940; 14 F.R. 885, Feb. 26, 1949; 18 F.R. 6259, Oct. 1, 1953]

Subpart J—Forms for Reports To Be Made by Market Makers and Certain Other Registered Broker-Dealers in Securities Traded on National Securities Exchanges

§ 249.917(1) Form X–17A–9(1) notification by market makers in common stocks traded on national securities exchanges.

This form shall be filed by each registered broker-dealer who is a market maker in any common stock traded on a national securities exchange, for the report pursuant to Rule 17a–9 (§ 240.17a–9 of this chapter), on or before December 10, 1964 and thereafter within 10 days after the commencement or cessation of such activity, showing the name of each exchange common stock in which he is a market maker and the principal exchange on which such stock is traded.

[29 F.R. 16245, Dec. 4, 1964; 32 F.R. 5256, Mar. 29, 1967]

§ 249.917(2) Form X–17A–9(2), report of transactions by market makers in common stocks listed on the New York Stock Exchange.

This form shall be filed by every registered broker-dealer who is a market

maker in any common stock listed on the New York Stock Exchange, for the report pursuant to paragraph (c) of Rule 17a-9 (§ 240.17a-9(c) of this chapter) for each calendar quarter during any part of which he is such a market maker.

[32 F.R. 5256, Mar. 29, 1967]

§ 249.917(3) Form X-17A-9(3), report of transactions by broker-dealers who acted as intermediary between public buyers and public sellers.

This form shall be filed by every registered broker-dealer who, at the time he is not subject to paragraph (c) of Rule 17a-9 (§ 240.17a-9(c) of this chapter), acts (otherwise than as underwriter or member of a selling syndicate or group) as sole broker or dealer intermediary between two public customers to effect, otherwise than on a national securities exchange, a transaction involving $25,000 or more in a common stock listed on the New York Stock Exchange, for the report pursuant to paragraph (d) of Rule 17a-9.

[32 F.R. 5256, Mar. 29, 1967]

PART 259—FORMS PRESCRIBED UNDER THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

AUTHORITY: The provisions of this Part 259 issued under secs. 5, 6, 7, 10, 12, 13, 14, 17(a), 20, 49 Stat. 812, 814, 815, 818, 823, 825, 827, 830, 833; 15 U.S.C. 79e, 79f, 79g, 79j, 79l, 79m, 79n, 79q, 79t.

§ 259.0-1 Incorporation by reference.

(a) The forms prescribed for use under the Public Utility Holding Company Act of 1935, which are identified and described in this part, are hereby incorporated by reference pursuant to 5 U.S.C. 552(a)(1) and 1 CFR Part 20.

(b) Copies of the forms prescribed in this part may be obtained on request addressed to Securities and Exchange Commission, Washington, D.C. 20549. The forms may also be inspected at that address, and at the Commission's regional and branch offices whose addresses appear in § 200.11 of this chapter.

(c) Revisions or amendments of the forms may be issued from time to time by the Securities and Exchange Commission. An historic file of such amendments or revisions is maintained and made available for inspection at the Securities and Exchange Commission, Washington, D.C. 20549.

Subpart A—Forms for Registration and Annual Supplements

§ 259.5a Form U5A, for notification of registration filed under section 5(a) of the Act.

This form shall be filed pursuant to Rule 1(a) (§ 250.1(a) of this chapter) for the notification required under section 5(a) of the Public Utility Holding Company Act of 1935 by every public utility holding company required to register under the Act.

[As amended 2 F.R. 913, May 27, 1937; 6 F.R. 2015, Apr. 19, 1941; 16 F.R. 2576, Mar. 21, 1951]

§ 259.5b Form U5B, for registration statements filed under section 5(b) of the Act.

This form shall be filed pursuant to Rule 1(b) (§ 250.1(b) of this chapter) for the registration statement required to be filed under section 5(b) of the Act by every public utility holding company required to register under the Act.

[Adopted 2 F.R. 913, May 27, 1937; amended 3 F.R. 977, May 20, 1938; revised 16 F.R. 2576, Mar. 21, 1951]

§ 259.5s Form U5S, for annual reports filed under section 5(c) of the Act.

This form shall be filed pursuant to Rule 1(c) (§ 250.1(c) of this chapter) for the annual report required to be filed under section 14 of the Act by every registered public utility holding company.

[Adopted 3 F.R. 977, May 20, 1938; revised 19 F.R. 1819, Apr. 2, 1954; amended 26 F.R. 8669, Sept. 16, 1961]

Subpart B—Forms for Applications and Declarations

§ 259.101 Form U-1, application or declaration under the Public Utility Holding Company Act of 1935.

This form shall be used pursuant to Rule 20(c) (§ 250.20(c) of this chapter) by any person filing an application or declaration or amendment thereto pursuant to sections 6(b), 7, 9(c)(3), 10, 12(b), (c), (d), or (f) of the Public Utility Holding Company Act of 1935 or any rules and regulations under such sections, where no other form is authorized or prescribed.

[Adopted 5 F.R. 667, Feb. 2, 1940; revised 28 F.R. 5664, June 11, 1963]

§ 259.111 Notice, for notice regarding filing subject to Rule 23.

This form will be used by the Commission as the form of notice prescribed in Rule 23 (§ 250.23 of this chapter) regarding the filing of certain applications and declarations specified in the rule.

[Adopted 6 F.R. 5950, Nov. 24, 1941]

§ 259.113 Form U-13-1, for applications for approval of mutual service companies pursuant to Rule 88 (§ 250.88 of this chapter).

This form shall be filed pursuant to Rule 88 (§ 250.88 of this chapter) for approval of a company as a mutual service company, by the company or person proposing to organize it under section 13 of the Act.

[1 F.R. 80, Apr. 1, 1936]

Subpart C—Forms for Statements and Reports

§ 259.206 Form U-6B-2, for notification of security issues exempt under section 6(b) of the Act.

This form shall be filed pursuant to section 6(b) of the Act as the certificate of notification of the issue, sale, renewal, or guaranty of securities exempted from

the application of section 6(a) of the Act.

[4 F.R. 1098, Feb. 24, 1939; revised 12 F.R. 2473, Apr. 17, 1947]

§ 259.212a Form U–12(I)–A, for statement of activity within scope of section 12(i) of the Act pursuant to Rule 71(a) (§ 250.71(a) of this chapter).

This form shall be filed pursuant to Rule 71(a) (§ 250.71(a) of this chapter) by any person who engages in any activity within the scope of section 12(i) of the Act.

[7 F.R. 96, Jan. 6, 1942]

§ 259.212b Form U–12(I)–B, for advance statement of activity within scope of section 12(i) of the Act pursuant to Rule 71(b) (§ 250.71(b) of this chapter).

This form may be filed as an advance statement pursuant to Rule 71(b) (§ 250.71(b) of this chapter) by certain persons designated therein covering anticipated activity within the scope of section 12(i) of the Act.

[7 F.R. 96, Jan. 6, 1942]

§ 259.213 Form U–13E–1, for report by affiliate companies and independent service companies pursuant to Rule 95 (§ 250.95 of this chapter).

This form shall be filed pursuant to Rule 95 (§ 250.95 of this chapter) by an affiliate of a registered public utility holding company or subsidiary company thereof in connection with the performance of any service, construction or sale of goods to an affiliate.

[3 F.R. 2568, Oct. 27, 1938]

§ 259.217a Form 3, initial statement of beneficial ownership of securities under section 17(a) of the Act.

This form shall be filed pursuant to Rule 72 (§ 250.72 of this chapter) for the initial statement of beneficial ownership of securities required by section 17(a) of the Act.

[26 F.R. 2466, Mar. 23, 1961]

§ 259.217b Form 4, statement of changes in beneficial ownership of securities under section 17(a) of the Act.

This form shall be filed pursuant to Rule 72 (§ 250.72 of this chapter) for statement of changes in beneficial ownership of securities required by section 17(a) of the Act.

[26 F.R. 2466, Mar. 23, 1961]

§ 259.221 Form U–R–1, for solicitations pursuant to Rule 62 (§ 250.62 of this chapter), in connection with reorganizations.

This form shall be filed for the declaration pursuant to Rule 62 (§ 250.62 of this chapter) for solicitations in connection with any reorganization subject to the rule.

[6 F.R. 2042, Apr. 19, 1941]

Subpart D—Forms for Periodic Accounting Reports

§ 259.313 Form U–13–60, for annual reports pursuant to Rule 94 (§ 250.94 of this chapter) by mutual and subsidiary service companies required by section 13 of the Act.

This form shall be filed pursuant to Rule 94 (§ 250.94 of this chapter) by every mutual service company and every subsidiary service company required thereunder to file annual reports under section 13 of the Act. (See uniform system of accounts for mutual and subsidiary service companies, Part 256 of this chapter.)

[5 F.R. 59, Dec. 29, 1939; revised 19 F.R. 134, Jan. 8, 1954]

Subpart E—Forms for Statements and Reports From Nonregistered (Exempt) Companies

§ 259.402 Form U–3A–2, for annual reports pursuant to Rule 2 (§ 250.2 of this chapter) for exempt holding companies which are intrastate or predominantly operating companies.

This form shall be filed as the annual report under Rule 2 (§ 250.2 of this chapter) by every public utility holding company claiming exemption under section 3 of the Act as an intrastate or predominantly operating company.

[4 F.R. 4548, Nov. 19, 1939]

§ 259.403 Form U–3A3–1, for annual reports pursuant to Rule 3 (§ 250.3 of this chapter) for banks which are exempt holding companies.

This form shall be filed pursuant to paragraph (c) of Rule 3 (§ 250.3(c) of this chapter) by any bank claiming exemption from any obligation, duty or liability as a holding company under the Act.

[1 F.R. 38, Mar. 19, 1936; revised 4 F.R. 2286, June 7, 1939; 16 F.R. 253, Jan. 10, 1951]

Subpart F—Forms for Amendments

§ 259.501 Form U–A, for amendments pursuant to Rule 20(b) (§ 250.20(b) of this chapter) to any application, declaration, document or report filed under the Act.

This form shall be used pursuant to Rule 20(b) (§ 250.20(b) of this chapter) for filing amendments to any application, declaration, document or report filed under the Act, except applications or declarations filed on Form U–1 (§ 259.101 of this chapter).

[5 F.R. 2549, July 12, 1940; revised 19 F.R. 5212, Aug. 18, 1954]

PART 269—FORMS PRESCRIBED UNDER THE TRUST INDENTURE ACT OF 1939

Sec.

AUTHORITY: The provisions of this Part 269 issued under secs. 304(c), 305, 307, 308, 309, 310, 319, 53 Stat. 1153, 1154, 1156, 1157, 1173; 15 U.S.C. 77ddd(c), 77eee, 77ggg, 77hhh, 77iii, 77jjj, 77sss.

§ 269.0–1 Incorporation by reference.

(a) The forms prescribed for use under the Trust Indenture Act of 1939, which are identified and described in this part, are hereby incorporated by reference pursuant to 5 U.S.C. 552(a)(1) and 1 CFR Part 20.

(b) Copies of the forms prescribed in this part may be obtained on request addressed to Securities and Exchange Commission, Washington, D.C. 20549. The forms may also be inspected at that address, and at the Commission's regional and branch offices whose addresses appear in § 200.11 of this chapter.

(c) Revisions or amendments of the forms may be issued from time to time by the Securities and Exchange Commission. An historic file of such amendments or revisions is maintained and made available for inspection at the Securities and Exchange Commission, Washington, D.C. 20549.

§ 269.1 Form T–1, for statement of eligibility and qualification for corporate trustees.

This form shall be filed pursuant to Rule 5a–1(a) (§ 260.5a–1(a) of this chapter) for statements of eligibility and qualification of corporations designated to act as trustees under trust indentures to be qualified pursuant to section 305 or 307 of the Trust Indenture Act of 1939.

[5 F.R. 277, Jan. 24, 1940; revised 30 F.R. 12387, Sept. 29, 1965]

§ 269.2 Form T–2, for statement of eligibility and qualification for individual trustees.

This form shall be filed pursuant to Rule 5a–1(b) (§ 260.5a–1(b) of this chapter) for statements of eligibility and

qualification of individuals designated to act as trustees under trust indentures to be qualified pursuant to section 305 or 307 of the Trust Indenture Act of 1939.

[5 F.R. 277, Jan. 24, 1940, revised 30 F.R. 12387, Sept. 29, 1965]

§ 269.3 Form T–3, for application for qualification of trust indentures.

This form shall be filed pursuant to Rule 7a–1 (§ 260.7a–1 of this chapter) for applications for qualification of indentures pursuant to section 307(a) of the Trust Indenture Act of 1939, but only when securities to be issued thereunder are not required to be registered under the Securities Act of 1933 (15 U.S.C. 77a et seq.).

[5 F.R. 277, Jan. 24, 1940; amended 16 F.R. 499, Jan. 19, 1951, 27 F.R. 4553, May 12, 1962]

§ 269.4 Form T–4, for application for exemption pursuant to section 304 (c) of the Act.

This form shall be filed pursuant to Rule 4c–1 (§ 260.4c–1 of this chapter) for applications for exemption filed pursuant to section 304(c) of the Trust Indenture Act of 1939.

[6 F.R. 981, Feb. 15, 1941; 11 F.R. 177–738, Sept. 11, 1946]

§ 269.17 Form 7–M, consent to service of process by an individual nonresident broker-dealer.

This form shall be filed pursuant to Rule 0–9 (§ 260.0–9 of this chapter) by each individual nonresident broker-dealer registered or applying for registration. (Same as § 249.507 of this chapter.)

[18 F.R. 2576, May 2, 1953, as amended at 23 F.R. 9691; Dec. 16, 1958; 29 F.R. 16982, Dec. 11, 1964; redesignated 30 F.R. 11851, Sept. 16, 1965]

§ 269.18 Form 8–M, consent to service of process by a corporation which is a nonresident broker-dealer.

This form shall be filed pursuant to Rule 0–9 (§ 260.0–9 of this chapter) by each corporate nonresident broker-dealer registered or applying for registration. (Same as § 249.508 of this chapter.)

[18 F.R. 2576, May 2, 1953, as amended at 23 F.R. 9691, Dec. 16, 1958; 29 F.R. 16982, Dec. 11, 1964; redesignated 30 F.R. 11851, Sept. 16, 1965]

§ 269.19 Form 9–M, consent to service of process by a partnership nonresident broker-dealer.

This form shall be filed pursuant to Rule 0–9 (§ 260.0–9 of this chapter) by each partnership nonresident broker-dealer registered or applying for registration. (Same as § 249.509 of this chapter.)

[18 F.R. 2576, May 2, 1953, as amended at 23 F.R. 9691, Dec. 16, 1958; 29 F.R. 16982, Dec. 11, 1964; redesignated 30 F.R. 11851, Sept. 16, 1965]

§ 269.20 Form 10–M, consent to service of process by a nonresident general partner of a broker-dealer firm.

This form shall be filed pursuant to Rule 0–9 (§ 260.0–9 of this chapter) by each nonresident general partner of a broker-dealer firm registered or applying for registration. (Same as § 249.510 of this chapter.)

[18 F.R. 2576, May 2, 1953, as amended at 23 F.R. 9691, Dec. 16, 1958; 29 F.R. 16982, Dec. 11, 1964; redesignated 30 F.R. 11851, Sept. 16, 1965]

§ 269.24 Form 4–R, irrevocable appointment of agent for service of process, pleadings and other papers by individual nonresident investment adviser.

This form shall be filed pursuant to Rule 0–10 (§ 260.0–10 of this chapter) by each individual nonresident investment adviser who is registered or applying for registration with the Commission as an investment adviser. (Same as § 279.4 of this chapter.)

[19 F.R. 4301, July 14, 1954]

§ 269.25 Form 5–R, irrevocable appointment of agent for service of process, pleadings and other papers by corporation nonresident investment adviser.

This form shall be filed pursuant to Rule 0–10 (§ 260.0–10 of this chapter) by each corporation nonresident investment adviser, and by each unincorporated nonresident investment adviser not organized as a partnership, which is registered or applying for registration with the Commission as an investment adviser. (Same as § 279.5 of this chapter.)

[19 F.R. 4301, July 14, 1954]

§ 269.26 Form 6–R, irrevocable appointment of agent for service of process, pleadings and other papers by partnership nonresident investment adviser.

This form shall be filed pursuant to Rule 0–10 (§ 260.0–10 of this chapter) by each partnership nonresident investment adviser which is registered or applying for registration with the Commission as an investment adviser. (Same as § 279.6 of this chapter.)

[19 F.R. 4301, July 14, 1954]

§ 269.27 Form 7–R, irrevocable appointment of agent for service of process, pleadings and other papers by nonresident general partner of investment adviser.

This form shall be filed pursuant to Rule 0–10 (§ 260.0–10 of this chapter) by each nonresident general partner of an investment adviser, and by each nonresident "managing agent" of an unincorporated investment adviser as defined in said Rule 0–10, which is registered or applying for registration with the Commission as investment adviser. (Same as § 279.7 of this chapter.)

[19 F.R. 4301, July 14, 1954]

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

Sec.

AUTHORITY: The provisions of this Part 274 issued under secs. 8, 23(c), 30, 38, 54 Stat. 803, 825, 836, 841; 15 U.S.C. 80a–8, 80a–23c, 80a–29, 80a–37.

§ 274.0–1 Incorporation by reference.

(a) The forms prescribed for use under the Investment Company Act of 1940, which are identified and described in this part, are hereby incorporated by reference pursuant to 5 U.S.C. 552(a)(1) and 1 CFR Part 20.

(b) Copies of the forms prescribed in this part may be obtained on request addressed to Securities and Exchange Commission, Washington, D.C. 20549. The forms may also be inspected at that address, and at the Commission's regional and branch offices whose addresses appear in § 200.11 of this chapter.

(c) Revisions or amendments of the forms may be issued from time to time by the Securities and Exchange Commission. An historic file of such amendments or revisions is maintained and made available for inspection at the Securities and Exchange Commission, Washington, D.C. 20549.

Subpart A—Registration Statements

§ 274.5 Form N–5, for registration statement of small business investment company under the Securities Act of 1933 and the Investment Company Act of 1940.

This form shall be used for the registration statement under both sections 6 and 7 of the Securities Act of 1933 (15 U.S.C. 77f, 77g) and section 8(b) of the Investment Company Act of 1940 (15 U.S.C. 80a–8(b)), by a small business investment company which is licensed as such under the Small Business Investment Act of 1958 or which has received preliminary approval of the Small Business Administration and has been notified by that Administration that it may submit a license application.

[Adopted 23 F.R. 10487, Dec. 30, 1958; restated 30 F.R. 3312, Mar. 11, 1965]

§ 274.10 Form N–8A, for notification of registration.

This form shall be used as the notification of registration filed with the Commission pursuant to section 8(a) of the Investment Company Act of 1940.

[Adopted 5 F.R. 4203, Oct. 24, 1940]

§ 274.11 Form N–8B–1, registration statement of management investment companies.

(a) This form shall be used as the registration statement to be filed, pursuant to section 8(b) of the Investment Company Act of 1940, by management investment companies other than companies which issued periodic payment plan certificates or which are sponsors or depositors of companies issuing such certificates.

[Form N–8B–1 was adopted 6 F.R. 2573, May 27, 1941; revised, 18 F.R. 8577, Dec. 19, 1953, and subsequently amended at 21 F.R. 8569, Nov. 8, 1956; 22 F.R. 8979, Nov. 8, 1957.]

§ 274.12 Form N–8B–2, registration statement of unit investment trusts which are currently issuing securities.

(a) This form shall be used as the registration statement to be filed, pursuant to section 8(b) of the Investment Company Act of 1940, by unit investment trusts which are currently issuing securities, including unit investment trusts which are issuers of periodic payment plan certificates.

[7 F.R. 4528, June 18, 1942]

§ 274.13 Form N–8B–3, registration statement of unincorporated management investment companies currently issuing periodic payment plan certificates.

(a) This form shall be used for registration statement to be filed, pursuant to section 8(b) of the Investment Company Act of 1940, by unincorporated management investment companies currently issuing periodic payment plan certificates.

[7 F.R. 4639, June 23, 1942]

§ 274.14 Form N–8B–4, registration statements of face-amount certificate companies.

This form shall be used for registration statements of face-amount certificate companies registered under the Investment Company Act of 1940.

[16 F.R. 281, Jan. 11, 1951]

Subpart B—Forms for Reports

§ 274.101 Form N–1R, annual report of registered management investment company under the Investment Company Act of 1940 and the Securities Exchange Act of 1934.

This form shall be used pursuant to Rule 30a–2 (§ 270.30a–2 of this chapter) for annual reports to be filed, pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934 and pursuant to section 30 of the Investment Company Act of 1940, by all management investment companies registered under the latter act, except those which issued periodic payment plan certificates, and except small business investment companies licensed as such under the Small Business Investment Act of 1958 which file annual reports with the Commission on Form N–5R (described in § 274.105 of this chapter).

[Formerly Form N–30A–1, 7 F.R. 4528, June 16, 1942] [Redesignated and Revised 30 F.R. 2136, Feb. 17, 1965, as amended at 30 F.R. 3312, Mar. 11, 1965; 33 F.R. 5749, Apr. 13, 1968]

§ 274.101a–1 EDP attachment for Form N–1R of registered open-end management investment company.

This form shall be used as an exhibit to annual reports filed pursuant to section 30 of the Investment Company Act of 1940 on Form N–1R by registered open-end management investment companies.

[33 F.R. 5749, 5764, Apr. 13, 1968]

§ 274.101a–2 EDP attachment for Form N–1R of registered closed-end management investment company.

This form shall be used as an exhibit to annual reports filed pursuant to section 30 of the Investment Company Act of 1940 on Form N–1R by registered closed-end management investment companies.

[33 F.R. 5749, 5764, Apr. 13, 1968]

§ 274.102 Form N–30A–2, annual report of unit investment trusts which are currently issuing securities.

This form shall be used for annual reports to be filed pursuant to Rule 30a–2 (§ 270.30a–2 of this chapter), which are required to be filed pursuant to section 15(d) of the Securities Exchange Act of 1934 and pursuant to section 30(a) of the Investment Company Act of 1940, by unit investment trusts which are currently issuing securities, including unit investment trusts which are issuers of periodic payment plan certificates. (Same as § 249.442 of this chapter.)

[8 F.R. 6079, May 12, 1943]

§ 274.103 Form N–30A–3, annual report of unincorporated management investment companies currently issuing periodic payment plan certificates.

This form shall be used for annual reports to be filed pursuant to Rule 30a–2 (§ 270.30a–2 of this chapter) which are required to be filed pursuant to section 15(d) of the Securities Exchange Act of 1934 and pursuant to section 30(a) of the Investment Company Act of 1940, by unincorporated management investment companies currently issuing periodic payment plan certificates. (Same as § 249.443 of this chapter.)

[8 F.R. 6079, May 12, 1943]

§ 274.105 Form N–5R, for annual reports of small business investment companies pursuant to section 30 of the Investment Company Act of 1940 and section 13 or 15(d) of the Securities Exchange Act of 1934.

This form shall be used pursuant to Rule 30a–2 (§ 270.30a–2 of this chapter) for annual reports required to be filed pursuant to Section 30 of the Investment Company Act of 1940 and Section 13 or 15(d) of the Securities Exchange Act of 1934 by all small business investment companies licensed under the Small Business Investment Act of 1958 which are subject to such reporting requirements.

[Adopted 25 F.R. 7368, Aug. 5, 1960; redesignated 30 F.R. 3312, Mar. 11, 1965]

§ 274.106 Form N–1Q, for quarterly report of registered management investment company.

This form shall be used pursuant to Rule 30b1–1 (§ 270.30b1–1 of this chapter) for quarterly reports required to be filed pursuant to section 30 of the Investment Company Act of 1940 ("Act")

and section 13 or 15(d) of the Securities Exchange Act of 1934 by all management investment companies to report the occurrence during the preceding calendar quarter of any one or more of the events specified in the items of this form.

[Adopted as Form N-30B-1 7 F.R. 4528, June 16, 1942; Revised and redesignated as Form N-1Q 32 F.R. 17583, Dec. 8, 1967]

§ 274.200 Form N-17D-1, report filed by small business investment company (SBIC) registered under the Investment Company Act of 1940 and an affiliated bank, with respect to investments by the SBIC and the bank, submitted pursuant to paragraph (d) (3) of § 270.17d-1.

This form shall be filed pursuant to Rule 17d-2 (§ 270.17d-2 of this chapter) as the report required, under subparagraph (d)(3) of Rule 17d-1 (§ 270.17d-1(d)(3) of this chapter), to be filed, either jointly or separately, by a small business investment company (SBIC) licensed as such under the Small Business Investment Act of 1958, and by a bank which is an affiliated person of either the SBIC or of an affiliated person of the SBIC, with respect to investments in a small business concern by the SBIC and the bank.

[26 F.R. 11240, Nov. 29, 1961]

Subpart C—Forms for Other Statements

§ 274.201 Form N-23C-1, statement by registered closed-end investment company with respect to purchases of its own securities pursuant to Rule 23c-1 during the last calendar month.

This form shall be filed, pursuant to subpararaph (a)(11) of Rule 23c-1 (§ 270.23c-1(a)(11) of this chapter) and section 23(c) of the Investment Company Act of 1940, by a registered closed-end investment company for reporting monthly purchases of securities of which it is the issuer, on or before the tenth day of the calendar month following the month in which the purchase occurs; but no report need be filed for any month in which there have been no such purchases.

[6 F.R. 1286, Mar. 5, 1941; 7 F.R. 10424, Dec. 15, 1942]

§ 274.202 Form 3, initial statement of beneficial ownership of securities.

This form shall be filed pursuant to Rule 30f-1 (§ 270.30f-1 of this chapter) for initial statements of beneficial ownership of securities required to be filed pursuant to section 30(f) of the Investment Company Act of 1940. (Same as § 249.103 of this chapter.)

[26 F.R. 2466, Mar. 23, 1961]

§ 274.203 Form 4, statement of changes in beneficial ownership of securities.

This form shall be filed pursuant to Rule 30f-1 (§ 270.30f-1 of this chapter) for statements of changes in beneficial ownership of securities required to be filed pursuant to section 30(f) of the Investment Company Act of 1940. (Same as § 249.104 of this chapter.)

[26 F.R. 2466, Mar. 23, 1961]

§§ 274.204–274.206 [Reserved]

§ 274.207 Form 7-M, for consent to service of process by an individual nonresident broker-dealer.

This form shall be filed pursuant to Rule 0-6 (§ 270.0-6 of this chapter) by each individual nonresident broker-dealer registered or applying for registration pursuant to section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o). (Same as § 249.507 of this chapter.)

[18 F.R. 2576, May 2, 1953, as amended at 23 F.R. 9691, Dec. 16, 1958; 29 F.R. 16982, Dec. 11, 1964; redesignated 30 F.R. 11851, Sept. 16, 1965]

§ 274.208 Form 8-M, for consent to service of process by a corporation nonresident broker-dealer.

This form shall be filed pursuant to Rule 0-6 (§ 270.0-6 of this chapter) by each corporation which is a nonresident broker-dealer registered or applying for registration pursuant to section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o). (Same as § 249.508 of this chapter.)

[18 F.R. 2576, May 2, 1953, as amended at 23 F.R. 9691, Dec. 16, 1953; 29 F.R. 16982, Dec. 11, 1964; redesignated 30 F.R. 11851, Sept. 16, 1965]

§ 274.209 Form 9-M, for consent to service of process by a partnership nonresident broker-dealer.

This form shall be filed pursuant to Rule 0-6 (§ 270.0-6 of this chapter) by each partnership nonresident broker-dealer registered or applying for registration pursuant to section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o). (Same as § 249.509 of this chapter.)

[18 F.R. 2576, May 2, 1953, as amended at 23 F.R. 9691, Dec. 16, 1958; 29 F.R. 16982, Dec. 11, 1964; redesignated 30 F.R. 11851, Sept. 16, 1965]

§ 274.210 Form 10-M, for consent to service of process by a nonresident general partner of a broker-dealer firm.

This form shall be filed pursuant to Rule 0-6 (§ 270.0-6 of this chapter) by each nonresident general partner of a broker-dealer firm registered or applying for registration pursuant to section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o). (Same as § 249.510 of this chapter.)

[18 F.R. 2576, May 2, 1953, as amended at 23 F.R. 9691, Dec. 16, 1958; 29 F.R. 16982, Dec. 11, 1964; redesignated 30 F.R. 11851, Sept. 16, 1965]

§§ 274.211–274.213 [Reserved]

§ 274.214 Form 4-R, irrevocable appointment of agent for service of process, pleadings and other papers by individual nonresident investment adviser.

This form shall be filed pursuant to Rule 0-7 (§ 270.0-7 of this chapter) by each individual nonresident investment adviser who is registered or applying for registration with the Commission as an investment adviser. (Same as § 279.4 of this chapter.)

[19 F.R. 4301, July 14, 1954]

§ 274.215 Form 5-R, irrevocable appointment of agent for service of process, pleadings and other papers by corporation nonresident investment adviser.

This form shall be filed pursuant to Rule 0-7 (§ 270.0-7 of this chapter) by each corporation nonresident investment adviser, and by each unincorporated nonresident investment adviser not organized as a partnership, which is registered or applying for registration with the Commission as an investment adviser. (Same as § 279.5 of this chapter.)

[19 F.R. 4301, July 14, 1954]

§ 274.216 Form 6-R, irrevocable appointment of agent for service of process, pleadings and other papers by partnership nonresident investment adviser.

This form shall be filed pursuant to Rule 0-7 (§ 270.0-7 of this chapter) by each partnership nonresident investment adviser which is reigstered or applying for registration with the Commission as an investment adviser. (Same as § 279.6 of this chapter.)

[19 F.R. 4301, July 14, 1954]

§ 274.217 Form 7-R, irrevocable appointment of agent for service of process, pleadings and other papers by nonresident general partner of investment adviser.

This form shall be filed pursuant to Rule 0-7 (§ 270.0-7 of this chapter) by each nonresident general partner of an investment adviser, and by each nonresident "managing agent" of an unincorporated investment adviser as defined in said Rule 0-7, which is registered or applying for registration with the Commission as investment adviser. (Same as § 279.7 of this chapter.)

[19 F.R. 4301, July 14, 1954]

PART 279—FORMS PRESCRIBED UNDER THE INVESTMENT ADVISERS ACT OF 1940

Sec.

AUTHORITY: The provisions of this Part 279 issued under sec. 211, 54 Stat. 855; 15 U.S.C. 80b–11.

§ 279.0–1 Incorporation by reference.

(a) The forms prescribed for use under the Investment Advisers Act of 1940, which are identified and described in this part, are hereby incorporated by reference pursuant to 5 U.S.C. 552(a)(1) and 1 CFR Part 20.

(b) Copies of the forms prescribed in this part may be obtained on request addressed to Securities and Exchange Commission, Washington, D.C. 20549. The forms may also be inspected at that address, and at the Commission's regional and branch offices whose addresses appear in § 200.11 of this chapter.

(c) Revisions or amendments of the forms may be issued from time to time by the Securities and Exchange Commission. An historic file of such amendments or revisions is maintained and made available for inspection at the Securities and Exchange Commission, Washington, D.C. 20549.

§ 279.1 Form ADV, for application for registration of investment adviser, and for amendments to such registration statement.

This form shall be filed pursuant to Rule 203–1 and 204–1 (§§ 275.203–1, 275.204–1 of this chapter) as an application for registration of an investment adviser pursuant to sections 203(c) or 203(f) of the Investment Advisers Act of 1940, and also as amendment to said registration pursuant to Rule 204–1 (§ 275.204–1 of this chapter).

[Formerly Form 1–R adopted 5 F.R. 3791, Sept. 25, 1940; revised 19 F.R. 4079, July 3, 1954; amended 26 F.R. 1212, Feb. 11, 1961, 26 F.R. 6024, July 6, 1961, 33 F.R. 8541, June 11, 1968]

§ 279.2 Form ADV–W, notice of withdrawal from registration as investment adviser.

This form shall be filed pursuant to Rule 203–2 (§ 275.203–2 of this chapter) by a registered investment adviser as a notice of withdrawal from registration as such under the Investment Advisers Act of 1940.

[32 F.R. 16151, Nov. 25, 1967]

§ 279.3 [Reserved]

§ 279.4 Form 4–R, irrevocable appointment of agent for service of process, pleadings and other papers by individual nonresident investment adviser.

This form shall be filed pursuant to Rule 0–2 (§ 275.0–2 of this chapter) by each individual nonresident investment adviser who is registered or applying for registration with the Commission as an investment adviser.

[19 F.R. 4301, July 14, 1954]

§ 279.5 Form 5–R, irrevocable appointment of agent for service of process, pleadings and other papers by corporation nonresident investment adviser.

This form shall be filed pursuant to Rule 0–2 (§ 275.0–2 of this chapter) by each corporation nonresident investment adviser, and by each unincorporated nonresident investment adviser not organized as a partnership, which is registered or applying for registration with the Commission as an investment adviser.

[19 F.R. 4301, July 14, 1954]

§ 279.6 Form 6–R, irrevocable appointment of agent for service of process, pleadings and other papers by partnership nonresident investment adviser.

This form shall be filed pursuant to Rule 0–2 (§ 275.0–2 of this chapter) by each partnership nonresident investment adviser which is registered or applying for registration with the Commission as an investment adviser.

[19 F.R. 4301, July 14, 1954]

§ 279.7 Form 7–R, irrevocable appointment of agent for service of process, pleadings and other papers by nonresident general partner of investment adviser.

This form shall be filed pursuant to Rule 0–2 (§ 275.0–2 of this chapter) by each nonresident general partner of an investment adviser, and by each nonresident "managing agent" of an unincorporated investment adviser as defined in said Rule 0–2, which is registered or applying for registration with the Commission as investment adviser.

[19 F.R. 4301, July 14, 1954]

§§ 279.8–279.16 [Reserved]

§ 279.17 Form 7–M, for consent to service of process by an individual nonresident broker-dealer.

This form shall be filed pursuant to Rule 0–1 (§ 275.0–1 of this chapter) by each individual nonresident broker-dealer registered or applying for registration pursuant to section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o). (Same as § 249.507 of this chapter.)

[18 F.R. 2576, May 2, 1953, as amended at 23 F.R. 9691, Dec. 16, 1958; 29 F.R. 16982, Dec. 11, 1964; redesignated 30 F.R. 11851, Sept. 16, 1965]

§ 279.18 Form 8–M, for consent to service of process by a corporation nonresident broker-dealer.

This form shall be filed pursuant to Rule 0–1 (§ 275.0–1 of this chapter) by each corporation which is a nonresident broker-dealer registered or applying for registration pursuant to section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o). (Same as § 249.508 of this chapter.)

[18 F.R. 2576, May 2, 1953, as amended at 23 F.R. 9691, Dec. 16, 1953; 29 F.R. 16982, Dec. 11, 1964; redesignated 30 F.R. 11851, Sept. 16, 1965]

§ 279.19 Form 9–M, for consent to service of process by a partnership nonresident broker-dealer.

This form shall be filed pursuant to Rule 0–1 (§ 275.0–1 of this chapter) by each partnership nonresident broker-dealer registered or applying for registration pursuant to section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o). (Same as § 249.509 of this chapter.)

[18 F.R. 2576, May 2, 1953, as amended at 23 F.R. 9691, Dec. 16, 1958; 29 F.R. 16982, Dec. 11, 1964; redesignated 30 F.R. 11851, Sept. 16, 1965]

§ 279.20 Form 10–M, for consent to service of process by a nonresident general partner of a broker-dealer firm.

This form shall be filed pursuant to Rule 0–1 (§ 275.0–1 of this chapter) by each nonresident general partner of a broker-dealer firm registered or applying for registration pursuant to section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o). (Same as § 249.510 of this chapter.)

[18 F.R. 2576, May 2, 1953, as amended at 23 F.R. 9691, Dec. 16, 1958; 29 F.R. 16982, Dec. 11, 1964; redesignated 30 F.R. 11851, Sept. 16, 1965]

[F.R. Doc. 68–15176; Filed, Dec. 19, 1968; 8:45 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER A—GENERAL

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

Exemption of Margarine From Certain Labeling Requirements

In the matter exempting margarine from certain labeling requirements of the regulations (21 CFR Part 1) for the enforcement of the Fair Packaging and Labeling Act:

A notice of proposed rulemaking in the above-identified matter was published in the FEDERAL REGISTER of May 25, 1968

(33 F.R. 7726), based on a petition submitted by the National Association of Margarine Manufacturers, 545 Munsey Building, Washington, D.C. 20004.

In response to the proposal, five comments were received as follows:

1. Two State agencies agree with the petitioner's grounds and support the proposal.

2. One State agency, while agreeing that packages of margarine are standardized as to size, opposes the exemption because "approval will weaken the Law."

3. A national association opposes the exemption because it believes that "if the history of packaging repeats itself, tubs of margarine will begin to vary in size, shape, and weight."

4. A consumer opposes the exemption without stating her reasons.

Based on consideration given the petition, the comments received, and other relevant information, the Commissioner of Food and Drugs concludes that:

A. Because liquid margarine (21 CFR 45.2), soft margarine, and whipped margarine are often packaged in containers not readily recognized as 1-pound units (for example, tubs, bottles, or rectangular packages of more than four sticks), the exemption should apply only to margarine packaged in solid 1-pound units or in rectangular packages of four ¼-pound sticks.

B. Since there was no opportunity for margarine manufacturers to make label changes during the pendency of the exemption proposal, any margarine label changes made necessary by the regulations under the Fair Packaging and Labeling Act (21 CFR Part 1) should be made before July 1, 1969.

C. The proposed amendment should be adopted as set forth below.

Accordingly, pursuant to the provisions of the Fair Packaging and Labeling Act (secs. 5(b), 6(a), 80 Stat. 1298, 1299; 15 U.S.C. 1453, 1455) and the Federal Food, Drug, and Cosmetic Act (sec. 701, 52 Stat. 1055, as amended; 21 U.S.C. 371), and under the authority delegated to the Commissioner (21 CFR 2.120): *It is ordered*, That § 1.1c(a) be amended by adding thereto a new subparagraph, as follows:

§ 1.1c Exemptions from required label statements.

* * * * *

(a) *Foods.* * * *

(11) Margarine as defined in § 45.1 of this chapter and imitations thereof in 1-pound rectangular packages, except for packages containing whipped or soft margarine or packages that contain more than four sticks, are exempt from the requirement of § 1.8b(f) that the declaration of the net quantity of contents appear within the bottom 30 percent of the principal display panel and from the requirement of § 1.8b(j)(1) that such declaration be expressed both in ounces and in pounds to permit declaration of "1 pound" or "one pound," provided an accurate statement of net weight appears conspicuously on the principal display panel of the package.

* * * * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing, and such objections must be supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in six copies.

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

(Secs. 5(b), 6(a), 80 Stat. 1298, 1299; 15 U.S.C. 1453, 1455; sec. 701, 52 Stat. 1055, as amended; 21 U.S.C. 371)

Dated: December 11, 1968.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 68-15183; Filed, Dec. 19, 1968; 8:47 a.m.]

PART 3—STATEMENTS OF GENERAL POLICY OR INTERPRETATION

Labeling for Food Fish of the Species *Reinhardtius Hippoglossoides*

In the FEDERAL REGISTER of August 21, 1968 (33 F.R. 11813), the Commissioner of Food and Drugs published a statement of policy, § 3.70, concerning the common name for food fish of the species *Reinhardtius hippoglossoides*. Objections to calling this fish "flounder" or "northern flounder" were filed and a hearing was requested by Canadian producers, American distributors of this fish and of the species commonly labeled "flounder," Canadian government officials, and union representatives.

Although the Federal Food, Drug, and Cosmetic Act does not provide for hearings on such statements of policy, an opportunity was afforded on October 2, 1968, for interested persons to present their views.

Many persons attending the hearing recommended that, if the name "Greenland halibut" could not longer be used, the products of *Reinhardtius hippoglossoides* be labeled "Greenland turbot."

Later three American distributors of the true turbot (*Rhombus maximus* or *Psetta maxima*) protested this proposal. One requested a hearing and was afforded an opportunity to present data to support his contention that the proposed name "Greenland turbot" would be misleading and would have an adverse impact on importation and sales of turbot. Similar views were expressed in writing by four British exporters of turbot and in aides-memoire filed with the State Department by the British and Danish Embassies.

Several American firms and the Minister of the Government of Newfoundland and Labrador wrote letters supporting the proposal to label this fish "Greenland turbot."

Persons interested in the marketing of turbot suggested the designation "Greenland sole" for *Reinhardtius hippoglossoides*. This name is subject to all the criticisms aimed at the name "flounder" or "northern flounder." Members of both the Bureau of Commercial Fisheries in the U.S. Department of Interior and of the Bureau of Science in the Food and Drug Administration claim such name is indefensible, scientifically, on the basis of past usage or otherwise.

After considering all information provided in the petition filed in behalf of the Halibut Association of North America and others, the information submitted at the informal hearing, and that subsequently presented by those advocating and those opposing the proposed name "Greenland turbot," the Commissioner of Food and Drugs concludes that policy statement in this matter should be revised to read as set forth below.

Therefore, pursuant to the authority contained in the Federal Food, Drug, and Cosmetic Act (secs. 403(b), 701(a), 52 Stat. 1047, 1055; 21 U.S.C. 343(b), 371(a)) and delegated to the Commissioner (21 CFR 2.120), § 3.70 is revised to read as follows:

§ 3.70 Labeling for food fish of the species *Reinhardtius hippoglossoides*.

(a)(1) *Reinhardtius hippoglossoides* is a species of *Pleuronectidae* right-eye flounders. Although smaller in size it resembles the Atlantic halibut (*Hippoglossus hippoglossus*) and Pacific halibut (*Hippoglossus stenolepis*) more closely than it does any of the other species of the *Pleuronectidae* which are commonly designated by names which include the word "flounder," "sole," or "turbot." Its resemblance to halibut is reflected in its scientific name (*hippoglossoides* means "halibut like") and in the common names by which it is known. In Canada and England it is called "Greenland halibut." In Norway, West Germany, Russia, France, and Spain it is known by names which in translation mean "black halibut." It is also known as "lesser halibut," "blue halibut," or "mock halibut."

(2) The difference in morphological characteristics between *Reinhardtius hippoglossoides* and the true halibut or the species commonly sold as flounder or sole are of less concern to American consumers than the differences in characteristics and food values of the flesh. The flesh of *Reinhardtius hippoglossoides* contains significantly less protein than that of halibut or turbot, but about the same as flounder or sole. It contains much more fat and provides significantly

more calories per 100 grams than halibut, turbot, flounder, or sole. The higher oil content causes the flesh to develop rancidity more quickly. The flesh is not as firm and requires more care in cooking than that of the other flatfishes.

(3) The commercial marketing of "Greenland halibut" in the United States began in 1964. Between 1964 and 1967 the catch by Newfoundland fishermen increased from about 3½ million pounds live weight to over 30 million pounds. Of the live weight, 30 to 35 percent can be "recovered" as fillets or blocks. There is no domestic production of *Reinhardtius hippoglossoides*.

(4) Halibut and flounder have a long history of marketing in the United States. The 1967 records show that U.S. halibut production was about 55.8 million pounds valued at $13.2 million to the fishermen. The 1967 flounder catch was about 155 million pounds valued at $17.4 million to the fishermen.

(5) There is no domestic production of true turbot. Imports in 1968 are estimated at over 400,000 pounds, valued at $1.50 to $1.60 per pound (total value over $600,000). Most of this is marketed to restaurants, but there have been limited sales direct to consumers through retail outlets.

(6) The claim is made that the marketing of "Greenland halibut" has had an adverse impact on sales and prices of the true halibut. Four States have enacted laws prohibiting the labeling or offering for sale of any food fish product designated as halibut, with or without additional descriptive words, unless it is the product of *Hippoglossus hippoglossus* or *Hippoglossus stenolepis*.

(7) In upholding the constitutionality of the Oregon law, a three-judge Federal court found that "Although the term 'Greenland Halibut' is accepted in the scientific community to describe *Reinhardtius hippoglossoides*, it is not a commonly understood name among the general public," and that because the consumer is not aware of the differences between "halibut" and "Greenland halibut" the labeling and sale of *Reinhardtius hippoglossoides* as "Greenland halibut" is deceptive. The decision of the lower court was affirmed on November 12, 1968, by the U.S. Supreme Court.

(8) Essentially the same differences exist between *Reinhardtius hippoglossoides* and the fish now commercially marketed in the United States as flounder, sole, or turbot. Producers and distributors of these fish have testified that marketing *Reinhardtius hippoglossoides* by names which include the words "flounder" or "turbot" will have an adverse impact on sales and prices of the fish they produce and distribute.

(9) Unfortunately, no name has been suggested that will fully inform consumers of the characteristics of *Reinhardtius hippoglossoides*. Unless importation and distribution of this fish is to be halted, producers and packers must be permitted to label their products with some name, even though it is not fully informative and even though it may have some adverse impact on sales and prices for some other species.

(10) From the information submitted to the Food and Drug Administration by all segments of the fishing industry, it appears that the name "Greenland turbot," while not fully informative:

(i) Is likely to mislead the smallest segment of U.S. consumers, since fewer of them are well acquainted with the characteristics of the delicacy, *Psetta maxima;*

(ii) Is likely to have less adverse impact on prices and sales, since the restaurant owners who purchase most of the imported *Psetta maxima* will not be deceived by the name "Greenland turbot";

(iii) Has some history of scientific and lay use, including use in official government statistical reports in the United States from 1911 to the present and in Canada from 1931 to the present; and

(iv) Is reported as an optional name for "Greenland halibut" in annual statistical reports ("FAO Yearbook of Fishery Statistics") of the Food and Agricultural Organization, World Health Organization.

(b) The Food and Drug Administration therefore concludes that food fish of the species *Reinhardtius* labeled as "Greenland halibut" or with any other name which includes the word "halibut" is misbranded within the meaning of section 403(a) of the Federal Food, Drug, and Cosmetic Act. Such fish will not be considered misbranded if labeled "Greenland turbot."

(c) The Food and Drug Administration will consider appropriate regulatory action regarding such misbranded fish shipped in interstate commerce if the act of misbranding the fish occurs after 90 days following date of publication of this section in the FEDERAL REGISTER, provided that:

(1) For an additional 90 days, bulk shipments labeled "Greenland halibut" may be imported or shipped in interstate commerce if the cartons or the invoices covering such shipments are prominently marked "when repacked or displayed for sale at retail, shall be labeled 'Greenland turbot'" (such markings may be placed upon bulk cartons at any time after publication of this section); and

(2) During the additional 90-day period, regulatory action will not be instituted solely because of use of the name "Greenland halibut" on retail packages packed prior to the end of the first 90-day period.

(Secs. 403(b), 701(a), 52 Stat. 1047, 1055; 21 U.S.C. 343(b), 371(a))

Dated: December 10, 1968.

WINTON B. RANKIN,
Deputy Commissioner of Food and Drugs.

[F.R. Doc. 68-15184; Filed, Dec. 19, 1968; 8:47 a.m.]

PART 120—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

2-Chloro-2', 6'-Diethyl-*N*-(Methoxymethyl) Acetanilide

A petition (PP 9F0740) was filed with the Food and Drug Administration by the Monsanto Co., 800 North Lindbergh Boulevard, St. Louis, Mo. 63166, proposing the establishment of tolerances for residues of the herbicide 2-chloro-2',6'-diethyl-*N*-(methoxymethyl) acetanilide in or on the raw agricultural commodities soybean forage at 0.75 part per million; corn grain, corn fodder and forage, and soybeans at 0.2 part per million; and in milk and eggs and in or on meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep at 0.02 part per million.

Data in the petition show that tolerances should include the herbicide's metabolites calculated as the parent compound.

The Secretary of Agriculture has certified that this pesticide chemical is useful for the purposes for which the tolerances are being established.

Based on consideration given the data in the petition and other relevant material, the Commissioner of Food and Drugs concludes that the tolerances established by this order will protect the public health. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 120 is amended by adding to Subpart C the following new section:

§ 120.249 2-Chloro-2', 6'-diethyl-*N*-(methoxymethyl) acetanilide; tolerances for residues.

Tolerances are established for residues of the herbicide 2-chloro-2',6'-diethyl-*N*-(methoxymethyl) acetanilide and its metabolites (calculated as 2-chloro-2',6'-diethyl-*N*-(methoxymethyl) acetanilide) in or on raw agricultural commodities as follows:

0.75 part per million in or on soybean forage.

0.2 part per million (negligible residues) in or on corn fodder and forage, corn grain, and soybeans.

0.02 part per million (negligible residues) in milk and eggs and in or on meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by

the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a (d)(2))

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

Dated: December 11, 1968.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 68-15185; Filed, Dec. 19, 1968; 8:47 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 206—FISHING AND HUNTING REGULATIONS

Atlantic Ocean, Chesapeake Bay and Tributaries

Correction

In F.R. Doc. 68-13621 appearing at page 16564 in the issue of Thursday, November 14, 1968, the following correction should be made: In § 206.50(f)(9) the longitude for "East River Daybeacon 2" should read "76°20'45.0'' ".

Title 36—PARKS, FORESTS, AND MEMORIALS

Chapter I—National Park Service, Department of the Interior

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

Yellowstone National Park, Wyo.

On page 11546 of the FEDERAL REGISTER of August 14, 1968, there was published a notice and text of a proposed amendment to § 7.13 of Title 36, Code of Federal Regulations. The purpose of the amendment is to protect the fishery resource and at the same time provide a high quality angling experience for Park visitors.

Interested persons were given 30 days within which to submit written comments, suggestions, or objections with respect to the proposed amendment. No objections or unfavorable comments or suggestions have been received, and the proposed amendment is hereby adopted without change and is set forth below. This revision shall take effect 30 days following the date of its publication in the FEDERAL REGISTER.

(5 U.S.C. 553; 39 Stat. 535; 16 U.S.C. 3; 28 Stat. 73; 16 U.S.C. 26)

Section 7.13(e)(6) of Title 36 of the Code of Federal Regulations is amended to read as follows:

§ 7.13 Yellowstone National Park.

* * * * *

(e) *Fishing.* * * *

(6) *Restriction on use of lines, bait, and lures.* (i) Each person fishing in Park waters shall use only one rod or line.

(ii) Only artificial lures to which is attached no more than one single, double, or treble hook shall be used in Park waters except as specified in the following paragraph.

(iii) Only artificial flies with no more than a single hook may be used for fishing in the Firehole River, Madison River, Squaw Lake, and that section of the Gibbon River extending from the mouth of the stream to the crest of Gibbon Falls.

(iv) When in the possession of any fishing equipment and while immediately adjacent to or on waters of the Park, no person shall possess any fish bait (e.g., worms, insects, minnows, fish eggs, or other organic matter, or parts thereof) or fish lures, except as provided for in subdivisions (ii) and (iii) of this subparagraph.

* * * * *

ROBERT R. LOVEGREN,
Acting Superintendent, Yellowstone National Park, Wyo.

[F.R. Doc. 68-15154; Filed, Dec. 19, 1968; 8:45 a.m.]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 1—GENERAL PROVISIONS

Determination as to Whether Disclosure Will Be Prejudicial to Mental or Physical Health of Claimant

Section 1.522 is revised to read as follows:

§ 1.522 Determination of the question as to whether disclosure will be prejudicial to the mental or physical health of claimant.

Determination of the question when disclosure of information from the files, records, and reports will be prejudicial to the mental or physical health of the claimant, beneficiary, or other person in whose behalf information is sought, will be made by the Chief Medical Director; Chief of Staff of a hospital; or the Director of an outpatient clinic.

(72 Stat. 1114; 38 U.S.C. 210)

This VA Regulation is effective the date of approval.

Approved: December 16, 1968.

By direction of the Administrator.

[SEAL] A. W. STRATTON,
Deputy Administrator.

[F.R. Doc. 68-15168; Filed, Dec. 19, 1968; 8:46 a.m.]

PART 17—MEDICAL

Miscellaneous Amendments

1. In § 17.30, paragraphs (m) and (n) are amended, paragraph (p) is revoked, and paragraphs (q) through (u) are redesignated (p) through (t) so that paragraphs (m) through (t) read as follows:

§ 17.30 Definitions.

* * * * *

(m) *Medical services.* The term "medical services" includes, in addition to medical examination and treatment, optometrists' services, dental and surgical services, and except under provisions of § 17.60(e), dental appliances, wheelchairs, artificial limbs, trusses, and similar appliances, special clothing made necessary by the wearing of prosthetic appliances, and such other supplies as the Administrator determines to be reasonable and necessary.

(n) *Domiciliary care.* The term "domiciliary care" includes transportation and incidental expenses for veterans who are unable to defray the expense of transportation.

(o) *Service-connected disability.* The term "service-connected disability" means a disability incurred or aggravated in line of duty in the active military, naval, or air service. See § 17.33 referable to presumptive service connection for psychosis. For purposes of out-patient treatment and on submission of an appropriate application therefor, all disabilities of Spanish-American War veterans may be considered war service connected.

(p) *Nursing home care.* The term "nursing home care" means the accommodation of convalescents or other persons who are not acutely ill and not in need of hospital care, but who require skilled nursing care and related medical services, if such nursing care and medical services are prescribed by, or are performed under the general direction of, persons duly licensed to provide such care. The term includes intensive care where the nursing service is under the supervision of a registered professional nurse. (Public Law 88-450; 78 Stat. 500)

(q) *Research center.* The term "research center" means an institution (or part of an institution) the primary function of which is research, training of specialists and demonstrations and which, in connection therewith, provides specialized, high quality diagnostic and treatment services for inpatients and outpatients.

(r) *Specialized medical resources.* The term "specialized medical resources"

means medical resources (whether equipment, space or personnel) which, because of cost, limited availability, or unusual nature, are either unique in the medical community or are subject to maximum utilization only through mutual use.

(s) *Commonwealth Army veteran.* The term "Commonwealth Army veteran" means any person who served before July 1, 1946, in the organized military forces of the Government of the Philippines, while such forces were in the service of the Armed Forces of the United States, pursuant to the military order of the President of the United States dated July 26, 1941, including among such military forces organized guerrilla forces under commanders appointed, designated, or subsequently recognized by the Commander-in-Chief, Southwest Pacific Area, or other competent authority in the Army of the United States, and who was discharged or released from such service under conditions other than dishonorable.

(t) *New Philippine Scout.* The term "new Philippine Scout" means any person who served in the Philippine Scouts under section 14 of the Armed Forces Voluntary Recruitment Act of 1945, and who was discharged or released from such service under conditions other than dishonorable.

2. Immediately preceding § 17.50, a new centerhead is added to read as follows:

USE OF DEPARTMENT OF DEFENSE, PUBLIC HEALTH SERVICE OR OTHER FEDERAL HOSPITALS

3. Section 17.50 is revised to read as follows:

§ 17.50 Use of Department of Defense, Public Health Service, or other Federal hospitals with beds allocated to the Veterans Administration.

Hospital facilities operated by the Department of Defense or the Public Health Service (or any other agency of the U.S. Government) may be used for the care of Veterans Administration patients pursuant to agreements between the Veterans Administration and the department or agency operating the facilities. When such an agreement has been entered into and a bed allocation for Veterans Administration patients has been provided for in a specific hospital covered by the agreement, care may be authorized within the bed allocation for any veteran eligible under § 17.47. Care in a Federal facility not operated by the Veterans Administration, however, shall not be authorized for any military retiree whose sole basis for eligibility is under § 17.46(b)(2), or, except in Alaska and Hawaii, for any retiree of the uniformed services suffering from a chronic disability whose entitlement is under § 17.46(a)(2), 17.47(b)(2), or 17.47(c)(2) regardless of whether he may have dual eligibility under other provisions of § 17.47.

4. Section 17.50a is added to read as follows:

§ 17.50a Emergency use of Department of Defense, Public Health Service or other Federal hospitals.

Hospital care in facilities operated by the Department of Defense or the Public Health Service (or any other agency of the U.S. Government) which do not have beds allocated for the care of Veterans Administration patients may be authorized subject to the limitations enumerated in § 17.50 only in emergency circumstances for any veteran otherwise eligible for hospital care under § 17.47.

5. Immediately preceding § 17.50b, a new centerhead is added to read as follows:

USE OF PUBLIC OR PRIVATE HOSPITALS

6. Section 17.50b is revised to read as follows:

§ 17.50b Use of public or private hospitals for veterans.

Directors of Veterans Administration hospitals and clinics, through designated contracting officers, may, when it is in the best interests of the Veterans Administration and Veterans Administration patients, contract for the use of public or private hospitals for the care of veterans. When demand is only for infrequent use, individual authorizations may be used. Admissions in public or private facilities, however, subject to the provisions of § 17.50c, will only be authorized, whether under a contract or as an individual authorization, for any veteran, if:

(a) *For service-connected disability or disability for which discharged.* The veteran is in need of hospital care for an adjudicated service-connected disability, or for a disability for which he was discharged from service and which was incurred or aggravated in line of duty, or

(b) *For adjunct treatment.* The veteran is in need of hospital care for a nonservice-connected disability associated with and held to be aggravating a service-connected disability, or

(c) *For veterans entitled to vocational rehabilitation.* The veteran has been found in need of vocational rehabilitation, and an objective has been selected for him, or he is pursuing a course of vocational rehabilitation training, and has been medically determined to need care or treatment for any of the reasons enumerated in § 17.36(b), or

(d) *For women veterans.* The veteran is a woman veteran of a war, or

(e) *For veterans in Puerto Rico and other possessions.* The veteran is a veteran of a war in the Commonwealth of Puerto Rico or other Territory, Commonwealth, or possession of the United States (except the authority under this paragraph expires Dec. 31, 1978), or

(f) *For veterans in Alaska or Hawaii.* The veteran is a veteran of a war in Alaska or Hawaii whose public or private hospital admission can be accommodated within an average daily patient load per thousand veteran population at Veterans Administration expense in Federal, public, or private hospital facilities in Alaska or Hawaii not exceeding the average daily patient load per thousand veteran population hospitalized by the Veterans Administration within the 48 contiguous States (except the authority under this paragraph expires Dec. 31, 1978), or

(g) *For emergent conditions arising during authorized travel.* The veteran is an applicant whose eligibility for hospitalization has been determined, whether for observation or treatment, or for a service-connected disability or nonservice-connected disability, and is in need of care in a public or private hospital for an emergent condition which developed during authorized travel to the originally designated hospital preventing completion of travel to the hospital, or during authorized travel after hospital discharge preventing completion of travel to the originally designated point of return (and this will encompass any other medical services necessitated by the emergency, including extra ambulance or other transportation which may also be furnished at Veterans Administration expense), or

(h) *For emergent conditions arising during nursing home care.* The veteran is receiving authorized nursing home care in a community nursing home care facility and requires immediate hospitalization in a public or private hospital for an emergent condition which developed during the nursing home care, or

(i) *For emergent conditions arising during care in a Veterans Administration hospital.* The veteran while hospitalized in a Veterans Administration hospital developed a need for emergency treatment which the hospital is not staffed or equipped to perform, and transfer to a public or private hospital which has the necessary staff or equipment is the only feasible means of providing the necessary treatment.

7. Sections 17.50c, 17.50d, 17.50e, and 17.50f are added to read as follows:

§ 17.50c Limitations on use of public or private hospitals.

The admisson of any patient to a private or public hospital at Veterans Administration expense will only be authorized if a Veterans Administration hospital or other Federal facility to which the patient would otherwise be eligible for admission is not feasibly available. A Veterans Administration facility may be considered as not feasibly available when the urgency of the applicant's medical condition, the relative distance of the travel involved, or the nature of the treatment required makes it necessary or economically advisable to use public or private facilities. In those instances where eligibility for care in public or private hospitals at Veterans Administration expense is conditioned upon the existence of emergency circumstances, the authorization will be continued after admission only for the period of time required by the hospital to meet the emergency and the veteran can be safely moved to a Veterans Administration or other Federal facility. An authorization for any veteran who at the time of his

application was already hospitalized in a public or private hospital will also be continued only until safe transfer to a Veterans Administration or other Federal facility is possible.

§ 17.50d Necessity for prior authorization.

The admission of a veteran to a non-Veterans Administration hospital at Veterans Administration expense must be authorized in advance. In the case of an emergency which existed at the time of admission, an authorization may be deemed a prior authorization if an application, whether formal or informal, by telephone, telegraph or other communication, is dispatched to the Veterans Administration within 72 hours after the hour of admission, including in the computation of time Saturdays, Sundays, and holidays. When an application for admission has been made more than 72 hours after admission, authorization for continued care at Veterans Administration expense shall be effective as of the postmark or dispatch date of the application, or the date of any telephone call constituting an informal application.

§ 17.50e Use of public or private hospitals under sharing agreements.

Hospital care in a State or local, public or private hospital facility may be authorized for any veteran entitled to hospital care under § 17.47 when such care is incidental to, or necessary for, the use of a specialized medical resource made available pursuant to an agreement for sharing specialized medical resources.

§ 17.50f Payment for authorized public or private hospital care.

Payment for public or private hospital care authorized under § 17.50b shall not be in excess of the rates the hospital customarily charges the general public for similar services in the community. Payment for ancillary services, supplies, or equipment will be made only to the extent the charges are reasonable and necessary. In the case of services which are out of the ordinary or of an unusual nature, payment will only be made upon a determination by the Veterans Administration that the services were, in fact, necessary and the charges reasonable. In the case of a hospital under contract with the Veterans Administration, all services and supplies will be paid at rates in accordance with the terms of the contract.

8. Immediately preceding § 17.51, a new centerhead is added to read as follows:

USE OF COMMUNITY NURSING HOME CARE FACILITIES

9. Immediately preceding § 17.52, a new centerhead is added to read as follows:

MEDICAL AND ANCILLARY SERVICES ON A CONTRACT OR FEE BASIS

10. Immediately following § 17.78, new centerheads and §§ 17.80 through 17.96 are added to read as follows:

PAYMENT AND REIMBURSEMENT OF THE EXPENSES OF UNAUTHORIZED MEDICAL SERVICES

§ 17.80 Payment or reimbursement of the expenses of unauthorized hospital care and other medical services.

To the extent allowable, the expenses of unauthorized care in a private or public (or Federal) hospital not operated by the Veterans Administration, or of any unauthorized medical services including transportation (except prosthetic appliances, similar devices, and repairs) may be paid on the basis of a timely filed claim, if:

(a) *For veterans in need of treatment for service-connected disability or adjunct treatment.* The unauthorized care or services were rendered to a veteran in need of such care or services for an adjudicated service-connected disability or nonservice-connected disability associated with and held to be aggravating a service-connected disability (or to a veteran found in need of vocational rehabilitation, and for whom an objective had been selected, or who is pursuing a course of vocational rehabilitation training, and who is medically determined to have been in need of care or treatment for any of the reasons enumerated in § 17.36(b)), and

(b) *In a medical emergency.* The unauthorized care or services were rendered in a medical emergency of such nature that delay would have been hazardous to life or health, and

(c) *When Federal facilities are unavailable.* Veterans Administration or other Federal facilities were not feasibly available, and an attempt to use them beforehand would not have been reasonable, sound, wise, or practicable, or treatment had been or would have been refused.

§ 17.81 Payment or reimbursement of the expenses of repairs to prosthetic appliances and similar devices furnished without prior authorization.

The expenses of repairs to prosthetic appliances, or similar appliances, therapeutic or rehabilitative aids or devices, furnished without prior authorization, but incurred in the care of a service-connected disability (or, in the case of a veteran entitled to vocational rehabilitation, incurred for any of the reasons enumerated in § 17.36(b)) may be paid or reimbursed on the basis of a timely filed claim, if:

(a) Obtaining the repairs locally was necessary, expedient, and not a matter of preference to using authorized sources, and

(b) The costs were reasonable, except that where it is determined the costs were excessive or unreasonable, the claim may be allowed to the extent the costs were deemed reasonable and disallowed as to the remainder. In no circumstances will any claim for repairs be allowed to the extent the costs exceed $35.

§ 17.82 Claimants.

A claim for payment or reimbursement of unauthorized medical services may be filed by the veteran who received the services (or his guardian) or by the hospital, clinic, or community resource which provided the services, or by a person other than the veteran who paid for the services.

§ 17.83 Preparation of claims.

Claims for unauthorized medical services shall be on such forms as shall be prescribed and shall include the following:

(a) The claimant shall specify the amount claimed and furnish bills, vouchers, invoices, or receipts or other documentary evidence establishing that such amount was paid or is owed, and

(b) The claimant shall provide an explanation of the circumstances necessitating the use of community medical care, services, or supplies instead of Veterans Administration care, services, or supplies, and

(c) The claimant shall furnish such other evidence or statements as are deemed necessary and requested for adjudication of the claim.

§ 17.84 Where to file claims.

Claims for payment or reimbursement of the expenses of unauthorized medical services should be filed as follows:

(a) *For services rendered in the United States.* Claims for the expenses of care or services rendered in the United States, including the Territories or Possessions of the United States, should be filed with the Chief, Outpatient Service or Clinic Director of the Veterans Administration hospital or Veterans Administration medical installation which serves the region in which the care or services were rendered, and

(b) *For services rendered in the Philippines.* Claims for the expenses of care or services rendered in the Republic of the Philippines should be filed with the Veterans Administration Regional Office, Manila, and

(c) *For services rendered in Canada.* Claims for the expenses of care or services rendered in Canada should be filed with the Chief, Outpatient Service, Veterans Administration Hospital, 50 Irving Street NW., Washington, D.C. 20422, and

(d) *For services rendered in Mexico.* Claims for the expenses of services rendered in Mexico should be filed with the Veterans Affairs Officer, American Embassy, Mexico City, Mexico, D. F., and

(e) *For services rendered in Puerto Rico.* Claims for the expenses of care or services rendered in the Commonwealth of Puerto Rico should be filed with the Veterans Administration Center, San Juan, P.R.

(f) *For services rendered in European and in other foreign countries.* Claims for medical services in European countries should be filed at the Veterans Administration Office for Europe, American Embassy, Via V. Veneto 62, Rome, Italy, or, in other foreign countries, at such American consular office which is conveniently located.

§ 17.85 Timely filing.

Claims for payment or reimbursement of the expenses of unauthorized medical services must be filed within the following time limits:

(a) A claim must be filed within 2 years after the date the care or services were rendered (and in the case of continuous care, payment will not be made for any part of the care rendered more than 2 years prior to filing claim), or

(b) In the case of care or services rendered prior to a Veterans Administration adjudication allowing service connection, a claim must be filed within 2 years of the date of notification of such allowance of an original or reopened claim for service connection of the disability for which treatment was rendered, except payment will not be made for any care rendered more than 2 years prior to filing the original or reopened claim for service connection which resulted in allowance.

§ 17.86 Date of filing claims.

The date of filing any claim for payment or reimbursement of the expenses of unauthorized medical services shall be the postmark date of a formal claim, or the date of any preceding telephone call, telegram, or other communication constituting an informal claim.

§ 17.87 Allowable rates and fees.

When it has been determined a veteran has received public or private hospital care or medical services the expenses of which may be paid or reimbursed under § 17.80, such expenses shall be paid only to the extent they are reasonable and not in excess of rates or fees the hospital or provider of services charges the general public for similar services in the community. Fees paid to doctors of medicine or doctors of osteopathy for any service shall not exceed the fee provided for such service in the State fee schedule in effect where the service was furnished.

§ 17.88 Retroactive payments prohibited.

When a claim for payment or reimbursement of expenses of unauthorized medical services has not been timely filed in accordance with the provisions of § 17.85, the expenses of any unauthorized care or services rendered prior to the date of filing the claim shall not be paid or reimbursed. In no event will a bill or claim be paid or allowed for any care or services rendered prior to the effective date of any law, or amendment to the law, under which eligibility for the medical services at Veterans Administration expense has been established.

§ 17.89 Payment for treatment dependent upon preference prohibited.

No reimbursement or payment of unauthorized medical treatment will be made when such treatment was procured through private sources in preference to available Government facilities.

§ 17.90 Payment of abandoned claims prohibited.

Any informal claim for the payment or reimbursement of medical expenses which is not followed by a formal claim, or any formal claim which is not followed by necessary supporting evidence, within 1 year from the date of the request for a formal claim or supporting evidence shall be deemed abandoned, and payment or reimbursement shall not be authorized on the basis of such abandoned claim or any future claim for the same expenses. For the purpse of this section, time limitations shall be computed from the date following the date of request for a formal claim or supporting evidence.

§ 17.91 Appeals.

When any claim for payment or reimbursement of expenses of medical care or services rendered in non-Veterans Administration facilities or from non-Veterans Administration resources has been disallowed, the claimant shall be notified of the reasons for the disallowance and of the right to initiate an appeal to the Board of Veterans Appeals by filing a Notice of Disagreement, and shall be furnished such other notices or statements as are required by Part 19 of this chapter, governing appeals.

DELEGATIONS OF AUTHORITY

§ 17.95 Authority to adjudicate reimbursement claims.

The outpatient service or clinic of any Veterans Administration hospital or other Veterans Administration medical installation having responsibility for the fee basis program in the region or territory (including the Republic of the Philippines) served by such outpatient service shall adjudicate all claims for the payment or reimbursement of the expenses of unauthorized medical services rendered in the region or territory.

§ 17.96 Authority to adjudicate foreign reimbursement claims.

The Outpatient Service, Veterans Administration Hospital, Washington, D.C., shall adjudicate claims for the payment or reimbursement of the expenses of unauthorized medical services rendered in any foreign country except the Republic of the Philippines.

§§ 17.140—17.148 [Revoked]

11. Immediately following § 17.129, the centerhead "Reimbursement of Expenses or Payment for Unauthorized Medical Services" is deleted and §§ 17.140 through 17.148 are revoked.

(72 Stat. 1114; 38 U.S.C. 210)

These VA regulations are effective date of approval.

Approved: December 16, 1968.

By direction of the Administrator.

[SEAL] A. W. STRATTON,
Deputy Administrator.

[F.R. Doc. 68-15169; Filed, Dec. 19, 1968; 8:46 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 101—Federal Property Management Regulations

SUBCHAPTER E—SUPPLY AND PROCUREMENT

PART 101-25—GENERAL

Use Standards for Carpeting

Use standards for carpeting are established for determining the areas and activities for which carpeting may be justified. Such standards are also applicable in the determination of furnishings to be supplied with executive type office furniture and furnishings.

The table of contents for Part 101-25 is amended by adding a new section reading as follows:

§ 101-25.302-5 Carpeting.

Subpart 101-25.3—Use Standards

Section 101-25.302 is amended by revising §§ 101-25.302-1 (a) and (b) and 101-25.302-5 as follows:

§ 101-25.302-1 Executive type office furniture and furnishings.

(a) The use of executive type wood (traditional or modern) office furniture, whether new or rehabilitated, shall be limited to personnel in grade GS-18 and above, or the equivalent thereto, including military rank. Such furniture may be provided to personnel of lower grade, but not below grade GS-15, upon determination by the agency head or his designee that a particular position and responsibilities justify such use. Appropriate furnishings matching this type of office furniture shall be limited to these personnel, except that carpeting may be supplied for use of other personnel when it is determined to be justified in accordance with the provisions of § 101-25.302-5. This type of office furniture includes items which are available from Federal Supply Schedules FSC Group 71, Parts VI and XII, and the executive office furniture (Allenwood) available from Federal Prison Industries, Inc.

(b) The use of unitized wood furniture shall be limited to personnel in grade GS-15 and above, or the equivalent thereto, including military rank. Appropriate furnishings matching this type of office furniture shall be limited to these personnel, except that carpeting may be supplied for use of other personnel when it is determined to be justified in accordance with the provisions of § 101-25.302-5. This type of furniture is included in Federal Supply Schedule FSC Group 71, Part VIII, which also lists appropriate unitized furniture (Allenwood) available from Federal Prison Industries, Inc.

* * * * *

§ 101-25.302-5 Carpeting.

Carpeting is authorized for use where it can be justified over other types of floor covering on the basis of cost, safety, insulation, acoustical control, the degree

of interior decoration required, or to maintain an environment commensurate with the purpose for which the space is allocated, as when executive or unitized office furniture is authorized under § 101–25.302–1.

(a) In connection with new construction or alteration to space, if it is known that the area will eventually require carpeting, then resilient floor covering should be omitted and the carpeting installed initially.

(b) With respect to use of carpeting in personnel quarters, agency heads shall be guided by the provisions of Bureau of the Budget Circular No. A–15, revised May 11, 1962. This circular defines the various categories of personnel quarters and establishes policy for furnishing such quarters including those circumstances under which a determination to furnish carpeting could be adequately supported.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date: This regulation is effective upon publication in the FEDERAL REGISTER.

Dated: December 13, 1968.

LAWSON B. KNOTT, Jr.,
Administrator of General Services.

[F.R. Doc. 68–15152; Filed, Dec. 19, 1968; 8:45 a.m.]

PART 101–26—PROCUREMENT SOURCES AND PROGRAMS

End-of-Year Submission of Purchase Documents

This revision provides guidelines with respect to the submission of agency purchase documents for supplies or services at the end of the fiscal year.

Subpart 101–26.1—General

Section 101–26.104 is revised to read as follows:

§ 101–26.104 End-of-year submission of purchase documents for action by GSA.

(a) Purchase documents for supplies or services submitted to GSA at or near the close of a fiscal year shall reflect actual agency requirements and shall not be used as a means of exhausting appropriation balances.

(b) Under the FEDSTRIP/MILSTRIP systems, requisitions made on GSA are not required to reflect the applicable appropriation or fiscal year funds to be charged. The Fund Code entry on the requisition simply indicates to the supply source (GSA) that funds are available to pay the charge, thereby providing authority for the release of material and subsequent billing. Requisitions received by GSA in purchase authority format are normally likewise converted to FEDSTRIP/MILSTRIP documentation so that processing can be accomplished expeditiously through a uniform system based on the use of automated equipment. Accordingly, primary responsibility rests with the ordering activity for insuring that requisitions which are intended to be chargeable to appropriations expiring on June 30 of the fiscal year are submitted in sufficient time for GSA to consummate the necessary action before June 30. Requisitions submitted on or before June 30 may be chargeable to appropriations expiring on that date provided the ordering agency is required by law or GSA regulation to use GSA supply sources. Where the ordering agency is not required to use GSA sources, requisitions for GSA stock items may be recorded as obligations provided the items are intended to meet a bona fide need of the fiscal year in which the need arises or to replace stock used in that fiscal year; requests for other than GSA stock items are to be recorded as obligations at the time GSA awards a contract for the required items. In the latter case, GSA procurement leadtimes illustrated in § 101–26.4801 should be used as a guide for timely submission of such requisitions. The "leadtimes" referred to relate to the number of days between submission of a requisition and actual delivery of the items involved. While this may furnish some guidance to requisitioners, there is no direct relationship between those leadtimes and the time it takes for GSA to make an award of a contract.

(c) End-of-year submission of purchase documents which require GSA to award a contract not later than June 30 in order to obligate the appropriation or funds of the ordering agency will be annotated to indicate that GSA procurement of the requested items has to be accomplished not later than June 30 of the year in which the purchase orders or requisitions are submitted. For example, a FEDSTRIP/MILSTRIP requisition should be prepared to contain Document Identifier Code AØE or AØ5 and reflect the annotation in the "Remarks" block. With this advice, GSA will attempt to complete procurement action prior to the end of the fiscal year. When a purchase order or requisition is received too late to permit GSA to complete procurement action prior to the end of the fiscal year, the requisitioning activity will be so notified and requested to furnish instructions as to the action to be taken. Based on these instructions, procurement action will be taken or the purchase order or requisition will be returned, without action, to the ordering activity.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date: This regulation is effective upon publication in the FEDERAL REGISTER.

Dated: December 13, 1968.

LAWSON B. KNOTT, Jr.,
Administrator of General Services.

[F.R. Doc. 68–15153; Filed, Dec. 19, 1968; 8:45 a.m.]

Title 46—SHIPPING

Chapter II—Maritime Administration, Department of Commerce

SUBCHAPTER C—REGULATIONS AFFECTING SUBSIDIZED VESSELS AND OPERATORS

[General Order 24, 3d Rev., Amdt. 1]

PART 284—VALUATION OF VESSELS FOR DETERMINING CAPITAL EMPLOYED AND NET EARNINGS UNDER OPERATING-DIFFERENTIAL SUBSIDY AGREEMENTS

Residual Value of Vessels—Adjustments for Depreciation

In F.R. Doc. 68–8788 appearing in the FEDERAL REGISTER issue of July 23, 1968 (33 F.R. 10459), notice was given of a proposed amendment to § 284.2(f) of 46 CFR Part 284 and comments were invited with respect thereto.

The comments received have been considered and the amendment published as aforesaid is hereby adopted and republished below without change.

Section 284.2(f) is hereby amended by adding a new subdivision (ii) to subparagraph (1) reading as follows and designating the existing text of subparagraph (1) as subdivision (i):

§ 284.2 Basis of valuation.

* * * * *

(f) *Adjustments for depreciation.* (1) * * *

(ii) On and after January 1, 1969, in computing depreciation on a 25-year statutory economic life vessel, the residual value (meaning the salvage (resale) value of the vessel) shall be deemed to be 17 percent of the original construction cost (meaning the full domestic shipyard construction cost in so far as vessels constructed under title V or title VII of the Merchant Marine Act, 1936, are concerned), subject to adjustment to:

(*a*) The actual resale value;

(*b*) The trade-in allowance made pursuant to section 510 of the Act; or

(*c*) The value established by the Maritime Administration's Ship Valuation Committee where no resale or trade-in has occurred, upon termination of the vessel's subsidy status or expiration of its statutory economic life, whichever occurs first; such adjustment to be made in the then current subsidy recapture period by revision of depreciation if required.

* * * * *

(Sec. 204, 49 Stat. 1987, as amended; 46 U.S.C. 1114; sec. 607, 66 Stat. 764, as amended; 46 U.S.C. 1177)

Dated: December 17, 1968.

By order of the Acting Maritime Administrator and the Maritime Subsidy Board.

JOHN M. O'CONNELL,
Assistant Secretary.

[F.R. Doc. 68–15218; Filed, Dec. 19, 1968; 8:50 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 18345; FCC 68-1194]

PART 73—RADIO BROADCAST SERVICES

Table of Assignments; Bay Shore, N.Y. etc.

First report and order. In the matter of amendment of § 73.202 *Table of Assignments,* FM Broadcast Stations. (Bay Shore, N.Y.; Lake Havasu City, Ariz., Eupora, Miss., Sledge, Miss., South Haven, Mich., Marksville, La., Waverly, Tenn., Livermore, and Hayward, Calif., North East, Pa., Lawrenceburg, Ky., and Bardstown, Ky.), Docket No. 18345, RM-1236, RM-1320, RM-1321, RM-1322, RM-1325, RM-1327, RM-1328, RM-1329, RM-1331, RM-1333, RM-1334, RM-1336.

1. The Commission has before it for consideration its notice of proposed rule making, issued in this proceeding on October 4, 1968 (FCC 68-995) and published in the FEDERAL REGISTER on October 9, 1968 (33 F.R. 15069), inviting comments on a number of changes in the FM Table of Assignments proposed by various interested parties. The following determinations were made after due consideration of all comments and data filed in the proceeding. Except as noted, the proposals were unopposed. All population figures were taken from the 1960 Census, unless otherwise indicated. This decision disposes of all the above-listed matters, except RM-1236, Bay Shore, N.Y., and RM-1329, Waverly, Tenn., which will be considered in a subsequent Report and Order in the near future.

2. *RM-1322, Eupora, Miss. (Webster County Broadcasting Co.); RM-1327, South Haven, Mich. (Van Buren County Broadcasting Co., Inc.); RM-1328, Marksville, La. (Avoyelles Broadcasting Corp.); RM-1334, Lawrenceburg, Ky. (William R. Nash); RM-1336 Bardstown, Ky. (Nelson County Broadcasting Co., Inc).* In these five cases, interested parties are seeking the assignment of a first Class A channel in a community without requiring any other changes in the table. The communities range in size from 1,468 to 6,149 in population, and none are located in an urbanized area. We are of the view that the requested assignments are merited and that they would serve the public interest. We are therefore adopting the following assignments:

3. *RM-1320 and RM-1321. Lake Havasu City, Ariz.* Two separate petitions were filed by two prospective applicants, each requesting rule making to assign a different Class A channel to Lake Havasu City, Ariz. In a petition filed June 25, 1968, Mr. Lee R. Shoblom proposed assignment of Channel 240A. In the second petition filed June 27, 1968, by Messers. Dal Stallard and Robert M. Smith, assignment of Channel 257A was proposed.

4. Lake Havasu City is a new unincorporated community under development in Mohave County. The community is located some 50 miles southwest of Kingman, Ariz., at the California-Arizona boundary. The community's present population is estimated by petitioners to be 3,500 to 4,000 persons. The 1960 U.S. Census does not list Lake Havasu City, but lists Mohave County with a population of 4,525. An unoccupied Class A FM channel and an operating Class IV AM station at Kingman are the only broadcast assignments in the County. An application (BP-18124), filed by petitioner Shoblom, is pending for a daytime-only AM station at Lake Havasu City.

5. In view of the limited size of the community, our notice inviting comments on the proposals for Lake Havasu City stated that our decision would be limited to the assignment of one or the other of the proposed channels, but not both. In response to our invitation for comments, Messers. Stallard and Smith submitted a statement in which they concur that only one FM channel should be assigned. No other comments were filed in this case.

City	Channel No.
Eupora, Miss	269A
South Haven, Mich	252A
Marksville, La	249A
Lawrenceburg, Ky	[1] 265A
Bardstown, Ky	244A

[1] Assignment of this channel is conditioned on its use at a site about 3.5 miles southwest of Lawrenceburg in order to meet the required spacing requirements of the rules.

6. In view of the data submitted by petitioners concerning the size and sparsity of available aural services, we conclude that it would serve the public interest to assign a first Class A channel to Lake Havasu City. Accordingly, we are assigning Channel 240A.

7. *RM-1325. Sledge, Miss.* In a petition filed July 8, 1968, Mr. Carter C. Parnell, Jr., requested rule making to assign Channel 240A to Sledge, Miss. Sledge, population 440, is in Quitman County (population 21,019), about 50 miles south of Memphis. There are no FM nor AM assignments in Quitman County.

8. We noted in the notice for this case that Channel 240A could also be assigned to one of two other and larger communities without an FM assignment, Marks (2,572) and Sardis (2,098), provided transmitter sites were selected at distances of 3.5 and 6 miles, respectively, outside the communities.[2] In comments filed in response to the notice, petitioner requests that assignment to Sardis be considered in lieu of the original request for Sledge. Petitioner further proposes that § 73.203(b) of the rules be amended to provide, in essence, that Class A stations may be located less than the standard spacings from other cochannel and adjacent channel stations, provided that the 1 mv/m field strength of the proposed station at a distance in the direction of a limiting station does not exceed the 1 mv/m field strength of a station located at the minimum distance specified by the rules from the limiting station. Mr. Parnell acknowledges that his proposed rule amendment is premised on the Sardis situation, where a site outside the city must be selected to meet spacing requirements. Petitioner urges that § 73.213 (concerning power and height limitations for pretable short-spaced stations) permits greater interference than would his proposal. It is finally urged that the amended rule would permit a site nearer to town where various utilities and facilities are more readily accessible, thereby making available more practicable transmitter and studio locations.

9. Sardis (population 2,098), is located in Panola County, about 18 miles east of Sledge. Panola County has one radio outlet, an AM station licensed for daytime-only operation at Batesville. In view of the greater population that would be served by a first local FM service, we are of the opinion that it would be preferable to assign Channel 240A to Sardis rather than to Sledge.

10. Petitioner's proposal to amend § 73.203(b) to provide "equivalent protection" by short-spaced Class A stations is beyond the scope of this proceeding, which, as stated in the notice, is concerned with proposed rule making to amend § 73.202, FM Table of Assignments. Nor do we consider that the proposed rule amendment has sufficient merit to warrant institution of rule making on it. We have on a number of occasions explained our reasons for not making FM assignments at short spacings with or without reduction of power or antenna height to afford "equivalent protection".[3] The same reasons are applicable here. The petitioner does not support his proposal by a showing of the effects the proposed rule relaxation would have on the public interest when applied, as it necessarily would be, throughout the country. The proposal seems to represent merely an ad hoc attempt to obtain a waiver of the standard separation requirements to permit a short-spaced operation at Sardis. No showing is made that suitable sites meeting the spacing requirements are not available at Sardis. The argument that § 73.212 would permit a higher level of interference than proposed here is without decisional significance, since that rule was especially developed to accommodate the nonconforming stations (with respect to present rules) authorized prior to adoption of the Table of Assignments and standard spacing requirements.

11. In view of the foregoing, we are denying the petitioner's proposed amendment of § 73.203(b) of the rules and assigning Channel 240A to Sardis, Miss., with the condition that applications filed for the channel shall specify sites meeting the standard spacing requirements of the rules.

[2] Further study for Channel 240A indicates that a site less than 2 miles south of the center of Sardis would satisfy the spacing requirements of the rules.

[3] For examples, see *Rock Hill, S.C.* (RM-674, FCC 65-387); *La Fayette, Ga.* (RM-1003, 4 FCC 2d 887 (1966)); *Circleville and New Albany, Ohio* (further notice of proposed rule making, Docket 16662, FCC 66-963); and *Lake Geneva, Wis.* (9 FCC 2d 20 and 10 FCC 2d 530 (1967)).

12. *RM–1331. Hayward and Livermore, Calif.* In a petition filed July 25, 1968, Pacific FM, Inc., licensee of Station KPEN (FM), San Francisco, proposed that Channel 269A be deleted from Hayward and assigned to Livermore, Calif., as follows:

City	Channel No.	
	Present	Proposed
Hayward, Calif	269A	
Livermore, Calif		269A

As was outlined in detail in our notice, Channel 269A was formerly licensed for operation at Hayward (KBBM (FM)) prior to the adoption of the FM table, at which time it was severely short-spaced to San Francisco stations KPEN (FM), Channel 267, and KDFC (FM), Channel 271 (about 20 and 15 miles, respectively, less than the 40 miles required). Channel 269A was subsequently licensed to Station KTUX (FM) for operation at Livermore, where the latest authorization (BPH–6930, granted Aug. 16, 1968) specifies a site providing substantially improved compliance with the spacing requirements with the San Francisco stations (spacings of 33.2 and 38.9 miles, respectively).

13. Essentially, petitioner's request is for amendment of the table to conform to the pattern of actual usage which has developed, and which would result in an improvement over the existing table arrangement because of smaller deviations from the standard mileage separations. Under the present assignment plan, if the license for the Livermore operation were not renewed for any reason, the channel would automatically revert to Hayward, and because of the new "10-mile rule" (§ 73.203(b)), Livermore would be denied further access to the channel under normal application procedures. No objections to the proposal were filed.

14. In view of the permanent improvement in short-spacings which would be assured, it is our opinion that petitioner's proposal would be in the public interest and should be adopted. We are therefore deleting Channel 269A from Hayward and assigning it to Livermore, Calif. This action does not affect the existing license or new construction permit for Station KTUX, Channel 269A, Livermore.

15. *RM–1333. North East, Pa.* In response to a petition filed July 26, 1968, by WBEN, Inc., licensee of Station WBEN–FM, Buffalo, N.Y., our notice invited comments on a proposal to assign Channel 265A to North East, Pa., and modify the construction permit (BPH–6326), granted to James D. Brownyard for operation of WHYP–FM at North East, to specify operation on Channel 265A in lieu of 272A.[4]

16. WBEN's interest in the proposal arises from its contention that operation of Channel 272A at North East would result in serious mutual first adjacent channel interference between WBEN–FM, Channel 273, and WHYP–FM, Channel 272A, within their respective 34 dbu (50 mv/m) contours. It is also urged that the proposed assignment of Channel 265A to North East would preserve the four channels heretofore allocated to Erie and eliminate the predicted interference to WBEN–FM. It is shown by WBEN that Channel 265A assigned to North East would conform to the separation requirements of the rules. It is further shown that this asignment would preclude other assignments only on Channel 265A in an area, the largest city of which, other than North East (population 4,217), is Ripley, N.Y. (population 1,247).

17. Comments were filed by James D. Brownyard in response to our notice stating that he is not opposed to the assignment of Channel 265A to North East, provided the WHYP–FM construction permit is modified to specify operation on Channel 265A in lieu of Channel 272A.

18. The spacing between WHYP–FM and WBEN–FM is about 5 miles greater than the 65-mile minimum specified by the rules. The rules (73.209(b)) provide that the only interference protection afforded between stations is that resulting from the minimum separation requirements. Thus, the proposal would not be warranted standing on the showing of alleged interference alone. However, because of the very limited area the substitute channel for North East may be utilized and meet the spacing requirements, the assignment would add to the overall efficiency and utilization of available FM assignments. Furthermore, modification of the WHYP–FM construction permit would automatically return Channel 272A to Erie for use there as listed in the table.

19. In view of the foregoing, we find it in the public interest to assign Channel 265A to North East, Pa., and to modify the outstanding construction permit (BPH–6326) for WHYP–FM to specify operation on Channel 265A in lieu of 272A. We again emphasize that so long as normal separation requirements are proposed, we will not hesitate to make future use of Channel 272A in this area, either as an Erie assignment or use elsewhere, if requested.

20. Authority for the adoption of the amendments adopted herein is contained in sections 4(i), 303, and 307(b) of the Communications Act of 1934, as amended.

21. In accordance with the determinations made above: *It is ordered*, That effective January 24, 1969, § 73.202(b) of the Commission's rules, the FM Table of Assignments, is amended to read, insofar as the communities named, as follows:

(a) Add the following entries:

City	Channel No.
Arizona:	
Lake Havasu City	240A
California:	
Livermore	269A
Kentucky:	
Bardstown	244A
Lawrenceburg	265A
Louisiana:	
Marksville	249A
Michigan:	
South Haven	252A
Mississippi:	
Eupora	269A
Sardis	240A
Pennsylvania:	
North East	265A

(b) Delete the following entry:

California:	
Hayward	269A

22. *It is further ordered*, Pursuant to section 316 of the Communications Act of 1934, as amended, that the outstanding construction permit for Station WHYP–FM, North East, Pa., held by James D. Brownyard, is modified, to specify operation on Channel 265A in lieu of Channel 272A, subject to the following condition:

(a) That permittee shall submit to the Commission by January 24, 1969, technical information conforming to the rules of the type normally required for the issuance of a construction permit on Channel 265A.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Adopted: December 12, 1968.

Released: December 18, 1968.

FEDERAL COMMUNICATIONS COMMISSION,[5]

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

[F.R. Doc. 68–15180; Filed, Dec. 19, 1968; 8:47 a.m.]

[FCC 68–1192]

PART 73—RADIO BROADCAST SERVICES

SCA Modulation Monitors; Effective Date

In the matter of amendment of §§ 73.253(a) and 73.553(a) (note 2) concerning the effective date of the requirement concerning SCA modulation monitors.

1. Section 73.253 of the rules relates to FM modulation monitors, including Subsidiary Communications Authorization (SCA) monitors required to be installed by stations engaging in SCA operation. Note 2 to paragraph (a) of that section states that—except for stations which installed SCA monitors before July 5, 1966, which are not involved here—stations must have in operation type-approved modulation monitors by January 1, 1969. The rule-making decision adopting this requirement (Docket 15404, issued in May 1966) originally set

[4] Brownyard applied for and was granted Channel 272A, which is listed in the table for Erie, Pa. The channel was available to North East, which is about 12 miles from Erie, under the former "25-mile" provision of section 73.203(b).

[5] Commissioner Robert E. Lee absent.

June 1, 1967, as the effective date thereof; Commission orders issued pursuant to requests later extended it to March 1, 1968, and January 1, 1969, the date presently specified. Section 73.553, concerning noncommercial educational FM stations, is to the same effect.

2. Collins Radio Co., one of the manufacturers of this type of equipment, on November 15, 1968, requested a further extension of the effective date of the SCA modulation monitor requirement, to April 1, 1969. It is stated that Collins received type approval on August 5, 1968, and although it has expedited its production schedule (normally 6 months) it will be able to deliver only a few SCA monitors by January 1. Therefore, it is asserted, broadcasters which have purchased associated Collins FM monitoring equipment will be put to a financial hardship if they are required to purchase a complete system from another manufacturer.

3. McMartin Industries, Inc., another manufacturer, which received type approval at about the same time as Collins, opposes the requested extension. It is stated that McMartin made vigorous efforts to get into production as quickly as possible—which others should have but apparently did not—and can deliver by the January 1 deadline. It is stated that repeated extensions of the date do not serve either the public interest or that of broadcasters (who are often confused by the change in dates); that adequate time has elapsed for manufacturers to be ready to meet the present deadline; that the numerical requirements for this equipment at this time are not high (since many stations engaged in SCA operation are "grandfathered" by virtue of having purchased monitors before July 5, 1966); and that stations which would be affected are all making money from their SCA operations, which they went into voluntarily, and therefore there is no undue burden involved in requiring these stations to purchase their SCA monitors from a manufacturer other than the one from whom they bought other monitors.

4. Under the circumstances, we are of the view that the short extension requested by Collins is warranted; but that if the public interest is to be served this must be the last extension. We do not envisage circumstances under which a further extension beyond April 1, 1969, will be warranted. Moreover, in order to make clear to stations their obligations under this rule and the necessity for prompt compliance with the requirement as extended, Note 2 as amended herein requires that stations must have equipment on order before January 1, the date previously specified.

5. Rule-making proceedings on the Collins request would obviously be impracticable in view of the time involved between now and January 1. Moreover, since the short extension of time requested is a procedural rather than a substantive matter and involves relaxation of an existing restriction, rule-making proceedings and the customary waiting period before effectiveness are unnecessary. Accordingly, pursuant to authority contained in sections 4(i) and 303(r) of the Communications Act: *It is ordered*, That, effective December 31, 1968, Note 2 to §§ 73.253(a) and 73.553(a) is amended to read as follows:

§ 73.253 **Modulation monitors.**

(a) * * *

NOTE 2: The provisions of this subpart shall become effective September 1, 1967, for stereophonic modulation monitors and January 1, 1969, for SCA modulation monitors except: (1) That the licensee of any FM broadcast station who purchased and installed a stereophonic or SCA modulation monitor, prior to July 5, 1966, which meets in part the requirements of § 73.332, may continue to use such monitor until January 1, 1972; and (2) stations which have type-approved SCA modulation monitors on order before January 1, 1969, must have such monitors in operation by April 1, 1969.

* * * * *

§ 73.553 **Modulation monitors.**

(a) * * *

NOTE 2: The provisions of this subpart shall become effective September 1, 1967, for stereophonic modulation monitors and January 1, 1969, for SCA modulation monitors, except that as to SCA modulation monitors stations which have type-approved monitors on order before January 1, 1969, must have such monitors in operation by April 1, 1969.

* * * * *

(Secs. 4, 303, 48 Stat., as amended 1006, 1082; 47 U.S.C. 154, 303)

Adopted: December 12, 1968.

Released: December 18, 1968.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 68-15179; Filed, Dec. 19, 1968; 8:47 a.m.]

[FCC 68-1193]

PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST, AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

Instructional Television Fixed Service

In the matter of amendment of § 74.951(a)(1) of the instructional television fixed service rules to permit the substitution without application of similar type-accepted transmitters.

1. Section 74.951(a)(1) of the instructional television fixed service (ITFS) rules now provides that an application is required (which means that a pending application for a new station or changed facilities must be amended) before one transmitter can be subsituted for another even where they are of the same power rating and other electrical characteristics, except where the replacement transmitter is identical to the one specified in the application or authorization. The question has recently been asked by parties interested in this service as to why this should be required where the proposed new transmitter is the same as that specified except that it is of different manufacture. It is stated that the necessity for amending ITFS applications for new or changed facilities in this respect, which occurs fairly often, entails a substantial delay in processing and getting new stations on the air. It is pointed out that the rules in the standard broadcast (AM), FM, and television translator services permit the substitution of one similar type-accepted transmitter for another without prior application, with notification of the change to the Commission and the Engineer in Charge of the district where the station is located.[1]

2. We are of the view that this change is warranted in the instructional fixed service, where transmitters are of low power and no substantial problems will ordinarily be presented. Accordingly, we are changing § 74.951(a)(1) to read as set forth below, to permit the substitution of similar, as well as identical, transmitters without prior application, provided the new transmitter is type-accepted and is of the same power rating and other electrical characteristics. The new rule is substantially the same as that in the television translator service; it provides for notification to the Commission and the Engineer in Charge of the District where the station is located when such a substitution without application is made.

3. Authority for this change is contained in section 4(i) and 303 (e) and (r) of the Communications Act of 1934, as amended. Since this change relaxes an existing requirement which is of some burden to applicants, authorized stations and the Commission and which serves no substantial purpose, and is in the public interest and will not adversely affect any party, rulemaking proceedings and the waiting period after adoption normally required by the Administrative Procedure Act (5 U.S.C. 553) are not required.

4. *Accordingly, it is ordered*, That, effective December 20, 1968, § 74.951(a)(1) of the Commission's rules is amended to read as follows:

§ 74.951 **Equipment changes.**

(a) * * *

(1) Replacement of the transmitter as a whole, except replacement with a transmitter of the identical power rating which has been type accepted by the Commission for use by instructional television fixed stations, or any change in equipment which could result in a change in the electrical characteristics or performance of the station. In cases where such a replacement of transmitter is made, the Commission and the Engineer in Charge of the radio district in which the station is located shall be notified in writing 3 days after the date of installation of the replacement transmitter. The

[1] Commissioner Robert E. Lee absent.

[1] This matter was raised during the course of a recent meeting of the Commission's national Committee for the full development of the instructional television fixed service. This is one of a number of constructive suggestions made by members of this Committee, and the Commission appreciates its efforts toward prompt and effective development of this service.

notification shall give the name of the manufacturer and type number of the transmitter, and shall include a certification by the licensee that the new installation complies in all respects with the technical requirements of this subpart, and that it complies with the technical requirements of the station's authorization or application.

* * * * *

(Secs. 4, 303, 48 Stat., as amended 1066, 1082; 47 U.S.C. 154, 303)

Adopted: December 12, 1968.

Released: December 17, 1968.

FEDERAL COMMUNICATIONS COMMISSION,[2]

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

[F.R. Doc. 68-15177; Filed, Dec. 19, 1968; 8:46 a.m.]

[Docket No. 18266; FCC 68-1178]

PART 97—AMATEUR RADIO SERVICE

Novice Class Amateur Radio License

Report and order. In the matter of amendment of Part 97 of the Commission's rules concerning the novice class amateur radio license, Docket No. 18266, RM-1288; amendment of Part 97 to extend special privileges to amateur novice class applicants and licensees over 40 years of age, RM-1324.

1. On July 26, 1968, the Commission released a notice of proposed rule making in the above-entitled matter for Docket 18266. The notice was duly published in the FEDERAL REGISTER on July 31, 1968 (33 F.R. 10883) and all comments submitted in response thereto have been fully considered.

2. The rule change proposed in the notice was suggested by the Electronic Industries Association (EIA) in a petition (RM-1288) and would permit a former holder of an amateur radio license to obtain the novice class license if he has not been licensed for at least the 12 months preceding the date of his application. The purpose is to afford persons who have been unlicensed for extended periods an opportunity to start as beginners in order to obtain the operating experience and proficiency for advancement in the field.

3. Almost without exception, the comments received support the proposal and urge prompt adoption of the rule change. Typical of the comments were the following:

> Early in my college days I was introduced to Amateur Radio. I studied for and obtained a Novice Class license. I was somewhat active, but my studies prevented a level of activity and study of code and theory to attain a General Class license. Now, however, I do find a little time when I could again be active. I further believe that I would be able to qualify for General or perhaps Advanced if I had the opportunity to work with CW as a Novice.
>
> My Novice license—expired on October 1, 1966 and I did not take the exam for a General license. I have no trouble at all sending and receiving code at the rate of 15 wpm, but I do have considerable difficulty with the mathematics of electronics necessary to get the higher license. I feel that if given the opportunity to have a Novice license for 2 years, I might be able to advance myself further.

4. One result of the proposed rule change would be to discontinue the practice of concurrent holding of the novice and technician class licenses. There was objection to this limitation in a few of the comments, including the one submitted by the American Radio Relay League, Inc. (ARRL), based upon the contention that technician class licensees would be denied the opportunity to obtain code speed practice for advancement to higher class licenses. However, it does not appear that such advancement is dependent upon the holding of a novice class license. Technician class licensees are able to utilize some of their assigned frequencies for on-the-air code speed practice. Alternatively, use can be made of code tapes, records, ARRL conducted code practice transmissions, and commercial station transmissions. The Commission finds, therefore, that eliminating concurrent availability of these two license classes is appropriate.

5. The EIA petition (RM-1288) contained other proposals considered in this proceeding. They contemplate, for the novice class license, reduction of the code speed requirement, a 5-year renewable license term, additional frequency allocations, and radiotelephony operating privileges. In a separate petition (RM-1324) which he requests to have considered in this proceeding, Mr. George Nims Raybin (WN2GWB) joins in the EIA proposals with the exception that he would limit the code speed reduction, the radiotelephony operating privileges, and the license renewal feature to persons who have reached 40 years of age.

6. The additional EIA proposals were not favorably considered for the reasons detailed in the notice. Basically, these proposals were found to require denial as being contrary to the purposes for which the novice class license is available. Nearly all of the comments concurred in this Commission finding. Mr. Raybin's proposal for an age qualification does not warrant a different determination since a licensee's age is not regarded as either a valid distinguishing factor or as an equitable one in this instance.

7. In consideration of the foregoing, the Commission concludes that amendment of § 97.9(f) of its rules as proposed, to permit the issuance of the novice class license to former amateur radio licensees who have been unlicensed for at least 1 year, is in the public interest, convenience, and necessity. Authority for this rule change is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended. *Accordingly, it is ordered,* That, effective January 24, 1969, Part 97 of the Commission's Rules is amended as set forth below.

8. *It is further ordered,* That the petitions RM-1288 and RM-1324 have been fully considered, and, to the extent that they are at variance with findings and determinations herein, they are denied.

9. *It is further ordered,* That this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended 1066, 1082; 47 U.S.C. 154, 303)

Adopted: December 12, 1968.

Released: December 18, 1968.

FEDERAL COMMUNICATIONS COMMISSION,[1]

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

I. Part 97 of the Commission's rules is amended as follows:

1. Section 97.9(f) is revised as follows:

§ 97.9 Eligibility for new operator license.

* * * * *

(f) *Novice class.* Any citizen or national of the United States, except a person who holds, or who has held within the 12-month period prior to the date of receipt of his application, a Commission-issued Amateur Radio license.

[F.R. Doc. 68-15178; Filed, Dec. 19, 1968; 8:46 a.m.]

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 995, Amdt. 2]

PART 1033—CAR SERVICE

Appointment of Embargo Agents

At a session of the Interstate Commerce Commission, Division 3, held in Washington, D.C., on the 12th day of December 1968.

Upon further consideration of Service Order No. 995 (32 F.R. 11948, 20817) and good cause appearing therefor:

It is ordered, That:

Section 1033.995 *Service Order No. 995* (Appointment of embargo agents) be, and it is hereby amended by substituting the following paragraph (f) for paragraph (f) thereof:

(f) *Expiration date.* This order shall expire at 11:59 p.m., December 31, 1969, unless otherwise modified, changed or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., December 31, 1968.

(Secs. 1, 12, 15 and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15 and 17(2). Interprets or applies Secs. 1(10-17), 15(4) and 17(2), 40 Stat. 101, as amended 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2))

It is further ordered, That copies of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order shall be given to the general public

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[2] Commissioner Robert E. Lee absent.

[1] Commissioner Robert E. Lee absent.

by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Division 3.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 68-15198; Filed, Dec. 19, 1968; 8:48 a.m.]

[S.O. 1007, Amdt. 1]

PART 1033—CAR SERVICE

Soo Line Railroad Co. Authorized To Operate Over Certain Trackage of Chicago and North Western Railway Co. and Northern Pacific Railway Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held at its office in Washington, D.C., on the 16th day of December, 1968.

Upon further consideration of Service Order No. 1007 (33 F.R. 14706), and good cause appearing therefor:

It is ordered, That:

Section 1033.1007 *Service Order No. 1007* (Soo Line Railroad Company authorized to operate over certain trackage of the Chicago and North Western Railway Company and the Northern Pacific Railway Company) be, and it is hereby amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* This order shall expire at 11:59 p.m., April 30, 1969, unless otherwise modified, changed, or suspended by the order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., December 31, 1968.

(Secs. 1, 12, 15 and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15 and 17 (2). Interprets or applies sec. 1(10–17), 15(4) and 17(2), 40 Stat. 101, as amended 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That copies of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 68-15199; Filed, Dec. 19, 1968; 8:48 a.m.]

[S.O. 994, Amdt. 2]

PART 1034—ROUTING OF TRAFFIC

Appointment of Agents

At a session of the Interstate Commerce Commission, Division 3, held in Washington, D.C., on the 13th day of December, 1968.

Upon further consideration of Service Order No. 994 (32 F.R. 11949, 20817) and good cause appearing therefor:

It is ordered, That:

Section 1034.994 *Service Order No. 994* (Rerouting of traffic—appointment of agents) be, and it is hereby amended by substituting the following paragraph (d) for paragraph (d) thereof:

(d) *Expiration date.* This order shall expire at 11:59 p.m., December 31, 1969, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., December 31, 1968.

(Secs. 1, 12, 15 and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15 and 17(2). Interprets or applies Secs. 1 (10–17), 15(4) and 17(2), 40 Stat. 101, as amended 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That copies of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Division 3.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 68-15200; Filed, Dec. 19, 1968; 8:48 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 929]

HANDLING OF CRANBERRIES

Notice of Proposed Rulemaking

Notice is hereby given that the Department is giving consideration to a proposed rule and regulation, hereinafter set forth, with respect to the transfer or assignment of base quantity to secure an indebtedness under the provisions of the marketing agreement, as amended, and Order No. 929, as amended (7 CFR Part 929; 33 F.R. 11639), regulating the handling of cranberries grown in Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The proposed rule and regulation recites the terms under which a grower may transfer or assign his base quantity to secure an indebtedness.

The proposal is as follows:

§ 929.150 Transfer or assignment of base quantity.

(a) If indebtedness is incurred with regard to the acreage to which the cranberries are attributed on which the base quantity was established, the base holder may transfer or assign the base quantity solely as security for the loan, and during the existence of such indebtedness no further transfer or assignment of the base quantity by the base holder shall be recognized unless the lender agrees thereto: *Provided,* That a copy of such loan agreement shall be filed by any party thereto with the committee before any right expressed therein with regard to the base quantity shall be recognized under this paragraph.

(b) This section shall not in any way be construed to affect the right of the Secretary of Agriculture to amend, modify or terminate this regulation, or the marketing order under which it is issued as provided by law.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposal should file the same with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 15th day after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: December 17, 1968.

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

[F.R. Doc. 68–15165; Filed, Dec. 19, 1968; 8:46 a.m.]

DEPARTMENT OF COMMERCE

Office of the Secretary

[15 CFR Part 10]

PROCEDURES FOR THE DEVELOPMENT OF VOLUNTARY PRODUCT STANDARDS

Notice of Proposed Rule Making

The purpose of this proposed revision of Part 10 of Title 15, Code of Federal Regulations, is to improve clarity and provide for needed improvements in the standards-making process.

Those portions of the proposed revision identified as §§ 10.2(a), 10.5, 10.6, and 10.12 are restatements of §§ 10.2(a), 10.5, 10.5a, and 10.11, respectively, of the existing Part 10 as amended by the Department on May 11, 1968 (33 F.R. 7073). These sections are included in the proposed revision solely for purposes of continuity and are not subject to further amendment at this time.

Interested parties are invited to participate in the proposed rule making by submitting written comments or suggestions, in duplicate, to the Assistant Secretary for Science and Technology, Department of Commerce, Washington, D.C. 20230. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be carefully considered before action is taken on the proposed revision.

A public docket will be available for examination by interested parties at the Central Reference and Records Inspection Facility of the Department of Commerce, Room 2122, Main Commerce Building, 14th Street between Pennsylvania Avenue and Constitution Avenue NW., Washington, D.C.

The Department of Commerce proposes to revise Part 10 of Title 15, Code of Federal Regulations, to read as follows:

Sec.

AUTHORITY: The provisions of this Part 10 issued under the authority of sec. 2, 31 Stat. 1449, as amended, sec. 1, 64 Stat. 371; 15 U.S.C. 272. Reorganization Plan No. 3 of 1946, Part VI.

§ 10.0 General.

(a) *Introduction.* (1) The Department of Commerce (hereinafter referred to as the "Department") recognizes the importance, the advantages, and the benefits of standardization activities. Economic growth is promoted through—

(i) Reduction of manufacturing costs, inventory costs, and distribution costs;

(ii) Better understanding among manufacturers, producers, or packagers (hereinafter referred to as producers), distributors, users, and consumers; and

(iii) Simplification of the purchase, installation, and use of the product being standardized.

(2) The participation by the Federal Government in the development of voluntary standards for products, packages, processes, and materials (hereinafter referred to as products) is recognized as a service to the public. Such standards may cover, but are not limited to, terms, classes, sizes (including sizes of packaged consumer commodities and body sizes for wearing apparel), dimensions, capacities, quality levels, performance criteria, performance requirements, material specifications, packaging practices, inspection requirements, marking requirements, testing equipment, and test procedures.

(b) *Requirements for Department of Commerce participation.* The Department will participate in the development of a voluntary standard upon its determination that such standard—

(1) Is likely to have national effect or implication;

(2) Reflects the interest of an industry group or an organization concerned with the manufacture, production, packaging, distribution, consumption, or use of the product, or the interest of a Federal or State agency; and

(3) Cannot be processed according to the needs or the desires of the proponent group by a private national standardizing body.

(c) *Role of the Department.* The Department assists in the establishment of a voluntary standard as follows:

(1) Acts as an unbiased coordinator in the development of the standard.

(2) Provides editorial assistance in the preparation of the standard.

(3) Supplies such assistance and review as is required to assure the technical soundness of the standard.

(4) Seeks satisfactory adjustment of valid points of disagreement.

(5) Determines the compliance with the criteria established in these procedures for such voluntary standards.

(6) Provides secretariat functions to each committee appointed by the Department under these procedures.

(7) Publishes the standard as a public document.

(8) Establishes a hallmark which may be used as a certification mark on or for products that meet the requirements set forth in the standard.

(d) *Role of producers, distributors, users, and consumers.* Producers, distributors, users, consumers, and other interested groups may contribute to the development of a standard as follows:

(1) Initiate and participate in the development of a standard.

(2) Provide technical or other relevant counsel, as appropriate, relating to a standard.

(3) Promote the use of, and the support for, a standard.

(4) Assist in keeping a standard current with respect to advancing technology and marketing practices.

§ 10.1 Initiating development of a new standard.

(a) Any group or association from among the producers, distributors, users, or consumers, or a testing laboratory, or a State or Federal agency, may request the Department to initiate the development and publication of a voluntary standard under these procedures. Requests shall be in writing, signed by a representative of the group or agency, and forwarded to the Department. The initial request may be accompanied by a copy of a draft of the suggested standard.

(b) The request shall contain the following information:

(1) The purpose and scope of the suggested standard.

(2) The names and addresses of the officers of the group or association, if the request is submitted by a group other than a State or Federal agency, or other than a nationally recognized organization.

(c) The Department may require that the following additional information be submitted in support of the request:

(1) A statement establishing the position that the development and publication of the standard would be in the public interest.

(2) A succinct statement explaining the need for the development of the standard through the Department of Commerce procedures.

(3) Technical, marketing, or other appropriate data or information essential to discussion and development of the proposed standard, including, but not limited to, physical, mechanical, chemical, or performance characteristics, and production figures.

(d) Upon receipt of an appropriate request and, after a determination by the Department that a voluntary standard would not be contrary to the public interest, the Department may initiate the development of a standard by requesting that a draft of the suggested standard be prepared by an appropriate committee, provided such a draft has not previously been submitted under paragraph (a) of this section.

(e) The Department may initiate the development of a voluntary standard, if such action is deemed by the Department to be in the public interest, notwithstanding the absence of a request from an outside source. The authority of the Department to initiate the development of a voluntary standard shall in no way diminish, supersede, or repeal the requirements and provisions prescribed under § 10.0(b) or § 10.0(c) or of any other criteria or procedures set forth in this Part 10.

§ 10.2 Development of proposed standard.

(a) A proposed standard as submitted to the Department:

(1) Shall be based on adequate technical information, or, in the case of size standards (including standards covering the quantities for packaged consumer commodities), on adequate marketing information, or both, as determined to be appropriate by the Department;

(2) Shall not be contrary to the public interest;

(3) Shall be technically appropriate and be such that conformance or nonconformance with the standard can be determined by inspection or other procedures which may be utilized by an individual or testing facility competent in the particular field;

(4) Shall follow the form prescribed by the National Bureau of Standards (copies of the recommended form may be obtained upon request from the Office of Engineering Standards Services, National Bureau of Standards, Washington, D.C. 20234);

(5) Shall include performance requirements if such are deemed by the Department to be feasible, practical, and appropriate; and

(6) May include, but not be limited to, dimensions, sizes, material specifications, product requirements, design stipulations, component requirements, test methods, and testing equipment descriptions. The appropriateness of the inclusion in a standard of any particular item listed in this subparagraph shall be determined by the Department.

(b) A proposed standard that is determined by the Department to meet the criteria set forth in paragraph (a) of this section, may be subjected to further review by an appropriate individual or agency (either government or nongovernment, but not associated with the proponent group).

(c) A proposed standard may be circulated by the Department to appropriate producers, distributors, users, consumers, and other interested groups for consideration and comment as well as to others requesting the opportunity to comment.

(d) The proponent group or appropriate committee which drafted the initial proposal under § 10.1(d) shall consider all comments and suggestions submitted by the reviewer designated under paragraph (b) of this section, and those received by the Department as a result of any circulation under paragraph (c) of this section, and shall make such adjustments in the proposal as are technically sound and as are believed to cause the standard to be generally acceptable to producers, distributors, users, consumers, and other interested parties. The adjusted proposal will then be submitted to the Department for further processing.

§ 10.3 Standard Review Committee.

(a) The Department will establish and appoint the members of a Standard Review Committee within a reasonable time after receiving a proposed standard. The Committee will consist of qualified representatives of producers, distributors, and users and consumers of the product for which a standard is sought, and of any other appropriate general interest groups such as State and Federal agencies. Representatives of Federal agencies shall be advisory, nonvoting members. Alternates to Committee members may be designated by the Department.

(b) A Standard Review Committee may remain in existence for a period necessary for the final development of the standard, or for 2 years, whichever is less.

(c) The Department will be responsible for the organization of the Committee. Any formal operating procedures developed by the Committee shall be subject to approval by the Department. The Committee may conduct business either in a meeting or through correspondence, but only if a quorum participates. A quorum shall consist of two-thirds of all voting members of the Committee. A majority of the voting members of the Committee participating shall be required to approve any actions taken by the Committee except for the action of recommending a standard to the Department, the requirements for which are contained in § 10.4(b).

§ 10.4 Development of a recommended standard.

(a) The Standard Review Committee, with the guidance and assistance of the Department and, if appropriate, the reviewer designated under § 10.2(b), shall review an adjusted proposed standard promptly. If the Committee finds that the proposal meets the requirements set forth in § 10.2(a), it may recommend to the Department that the proposal be circulated for acceptance under § 10.5. If, however, the Committee finds that the proposal being reviewed does not meet the requirements set forth in § 10.2(a), the Committee shall change the proposal so that these requirements are met, before recommending such proposal to the Department.

(b) The recommendation of a standard by the Standard Review Committee must be approved by at least three-quarters, or rejected by more than one-quarter, of all of the members of the

Committee eligible to vote. The voting on the recommendation of a standard shall be conducted by the Department if conducted by letter ballot. If such voting is accomplished at a meeting of the Committee, the balloting shall be either by roll call or by signed written ballot conducted by the Department or the Chairman of the Committee. If conducted by the Chairman, a report of the vote shall be made to the Department within 15 days. If the balloting at the meeting does not result in either approval by at least three-quarters of all members (or alternates) eligible to vote (whether present or not), or rejection by more than one-quarter of the members (or alternates) of the Committee eligible to vote, the balloting shall be disregarded and the Department will subsequently conduct a letter ballot of all members of the Committee.

(c) In those instances where a standard receives the required three-quarters vote of approval of the Committee, any dissenter shall have the right to object and to support his objection by furnishing the Chairman of the Committee and the Department with a written statement setting forth the basis for his objection. The written statement of explanation must be filed either within 15 days after the date of the meeting during which the voting on the standard was accomplished, or, in the case of a letter ballot, it must accompany the negative vote when it is returned to the Department.

(d) At the time a recommended standard is submitted to the Department, the Chairman of the Standard Review Committee shall furnish a written report in support of the Committee's recommendation. Such report shall include a statement with respect to compliance with the requirements as established by these procedures and a discussion of any unresolved objections raised, together with the Committee's reasons for rejecting such objections.

§ 10.5 Procedure for acceptance of recommended standard.

(a) Upon receipt from the Standard Review Committee of a recommended standard and report, the Department shall give appropriate public notice and distribute the recommended standard for acceptance unless—

(1) Upon a showing by any member of the Committee who has voted to oppose the recommended standard on the basis of an unresolved objection, the Department determines that if such objection were not resolved, the recommended standard—

(i) Would be contrary to the public interest, if published;

(ii) Would be technically inadequate; or

(iii) Would be inconsistent with law or established public policy; or

(2) The Department determines that all criteria and procedures set forth herein have not been met satisfactorily or that there is a legal impediment to the recommended standard.

(b) Distribution for aceptance or rejection for the purpose of determining general concurrence will be made to a list compiled by the Department, which, in the judgment of the Department, shall be representative of producers, distributors, users, and consumers.

(c) Distribution for comment will be made to any party filing a written request with the Department, and to such other parties as the Department may deem appropriate, including testing laboratories and interested State and Federal agencies.

(d) The Department will analyze the recommended standard and the responses received under paragraphs (b) and (c) of this section. If such analysis indicates that the recommended standard is supported by a consensus, it will be published as a Voluntary Product Standard by the Department, provided that all other requirements listed in these procedures have been satisfied.

(e) The following definitions shall apply to the terms used in this section:

(1) "Consensus" means general concurrence and, in addition, no substantive objection deemed valid by the Department.

(2) "General concurrence" means acceptance among those responding to the distribution made under paragraph (b) of this section in accordance with the conditions set forth in paragraph (f) of this section.

(3) "Substantive objection" means a documented objection based on grounds that one or more of the criteria set forth in these procedures has not been satisfied.

(4) "Average industry acceptance" means a percentage equal to the sum of the percentages of acceptance obtained from responses to distribution of the recommended standard in the producer segment, the distributor segment, and the user and consumer segment, divided by 3. No consideration will be given to volume of production or volume of distribution in determining average industry acceptance.

(5) "Producer segment" means those persons who manufacture or produce the product covered by the standard.

(6) "Distributor segment" means those persons who distribute at wholesale or retail the product covered by the standard.

(7) "User and consumer segment" means those persons who use or consume the product covered by the standard.

(8) "Acceptance by volume of production" means the weighted percentage of acceptance of those responding to the distribution in the producer segment. The weighting of each response will be made in accordance with the volume of production represented by each respondent.

(9) "Acceptance by volume of distribution" means the weighted percentage of acceptance of those responding to the distribution in the distributor segment. The weighting of each response will be made in accordance with the volume of distribution represented by each respondent.

(f) A recommended standard shall be deemed to be supported by general concurrence whenever:

(1) An analysis of the responses to the distribution under paragraph (b) of this section indicates:

(i) An average industry acceptance of not less than 75 percent;

(ii) Acceptance of not less than 70 percent by the producer segment, the distributor segment, and the user and consumer segment, each segment being considered separately; and

(iii) Acceptance by volume of production and acceptance by volume of distribution of not less than 70 percent in each case, provided that the Department shall disregard acceptance by volume of production or acceptance by volume of distribution or both unless, in the judgment of the Department, accurate figures for the volume of production or distribution are reasonably available and an evaluation of either or both of such acceptances is deemed necessary by the Department; or

(2) The Department determines that publication of the standard is appropriate under the procedures set forth in paragraph (g) of this section and, in addition, an analysis of the responses to the distribution under paragraph (b) of this section indicates:

(i) An average industry acceptance of not less than 66⅔ percent;

(ii) Acceptances of not less than 60 percent by the producer segment, the distributor segment, and the user and consumer segment, each segment being considered separately; and

(iii) Acceptance by volume of production and acceptance by volume of distribution of not less than 60 percent in each case: *Provided*, That the Department shall disregard acceptance by volume of production or acceptance by volume of distribution or both unless, in the judgment of the Department, accurate figures for the volume of production or distribution are reasonably available and an evaluation of either or both of such acceptances is deemed necessary by the Department.

(g) A recommended standard which fails to achieve the acceptance requirements of paragraph (f)(1) of this section, but which satisfies the acceptance criteria of paragraph (f)(2) of this section, will be returned to the Standard Review Committee for reconsideration. The Committee, by the affirmative vote of not less than three-quarters of all members eligible to vote, may resubmit the recommended standard without change to the Department with a recommendation that the standard be published as a Voluntary Product Standard. The Department shall then conduct a public rule-making hearing in accordance with the requirements of law as set forth in section 553 of title 5, United States Code, to assist it in determining whether publication of the standard is in the public interest. If the Department determines that publication of the standard is in the public interest, the standard will be published as a Voluntary Product Standard. The Department may, at any time after receiving the recommended standard from the Standard

Review Committee, and prior to publishing the standard, make editorial or other minor changes deemed necessary to reduce ambiguity or improve clarity within the standard: *Provided, however,* That no substantive changes shall be made in the standard.

§ 10.6 Procedure when a recommended standard is not supported by a consensus.

(a) If the Department determines that a recommended standard is not supported by a consensus, the Department may:

(1) Return the recommended standard to the Standard Review Committee for further action, with or without suggestions;

(2) Terminate the development of the recommended standard under these procedures; or

(3) Take such other action as it may deem necessary or appropriate under the circumstances.

§ 10.7 Standing Committee.

(a) The Department will establish and appoint the members of a Standing Committee prior to the publication of a standard. The Committee may include members from the Standard Review Committee, and will consist of qualified representatives of producers, distributors, users, and consumers of the product, and representatives of appropriate general interest groups such as municipal, State and Federal agencies. Representatives of Federal agencies shall be advisory, nonvoting members. Alternates to Committee members may be designated by the Department.

(b) Appointments to a Standing Committee may not exceed a term of 5 years. However, the Committee may be reconstituted by the Department whenever appropriate and members may be reappointed by the Department to succeeding terms. Appointments to the Committee will be terminated upon the withdrawal of the standard.

(c) The Department will be responsible for the organization of the Committee. Any formal operating procedures developed by the Committee shall be subject to approval by the Department. The Committee may conduct business either in a meeting or through correspondence, but only if a quorum participates. A quorum shall consist of two-thirds of all voting members of the Committee. A majority of the voting members of the Committee participating shall be required to approve any actions taken by the Committee except for the approval of revisions of the standard.

(d) The members of a Standing Committee should be knowledgeable about—

(1) The product or products covered by the standard;

(2) The standard itself; and

(3) Industry and trade practices relating to the standard.

(e) The members of the Committee shall—

(1) Keep themselves informed of any advancing technology or marketing practices that might affect the standard;

(2) Provide, as appropriate, interpretations of provisions of the standard;

(3) Make recommendations to the Department concerning the desirability or necessity to revise or amend the standard;

(4) Receive and consider proposals to revise or amend the standard; and

(5) Recommend to the Department the revision or amendment of a standard.

§ 10.8 Publication of standard.

(a) The Department may, at any time after receiving the recommended standard from the Standard Review Committee, and prior to publishing the standard, make editorial or other minor changes deemed necessary to reduce ambiguity or improve clarity within the standard: *Provided, however,* That no substantive changes shall be made in the standard.

(b) A standard published by the Department under these procedures is a voluntary standard and by itself has no mandatory or legally binding effect. Any person may choose to use or not to use such a standard. Appropriate reference in contracts, codes, advertising, invoices, announcements, product labels, and the like may be made to a standard published under these procedures. Such reference shall be in accordance with such policies as the Department may establish, but no product may be advertised in any manner which would imply or tend to imply approval or endorsement of that product by the Department or by the Federal Government. Hallmarks established by the Department in connection with those standards which provide for the use of a hallmark as a registered certification mark shall not be displayed without the prior written permission of the Department.

(c) A fee will be charged to the proponent group, when appropriate, to cover the initial publication expenses incurred in printing the final standard. This fee will entitle the proponent group to one thousand copies of the standard. Additional copies may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

§ 10.9 Review of published standards.

(a) Each standard published under Department procedures will be reviewed by the Department, with such assistance of the Standing Committee or others as may be deemed appropriate by the Department, within 5 years after initial issuance or last revision and at least every 5 years thereafter. The purpose of this review will be to determine whether the standard has become obsolete, technically inadequate, no longer acceptable to or used by the industry, or inconsistent with law or established public policy.

(b) If any of the above conditions is found to exist, the Department will initiate action to amend, revise, or withdraw the standard in accordance with § 10.10 or § 10.11. If none of the above conditions is found to exist, the standard will be kept in effect, and the title sheet of the standard will show the date on which the review was completed.

§ 10.10 Revision or amendment of a standard.

(a) A published standard shall be subject to revision or amendment when it is determined to be inadequate by its Standing Committee or by the Department for one or more of the following reasons or for any other appropriate reason:

(1) Any portion of the standard is obsolete, technically inadequate, or no longer generally acceptable to or used by the industry.

(2) The standard or any part of it is inconsistent with law or established public policy.

(3) The standard or any part of it is being used to mislead users or consumers or is determined to be against the interest of users, consumers, or the public in general.

(b) A revision of a standard shall be considered by the Department to be any change that would directly affect the conformance or nonconformance of a product with the standard. Each suggestion for revision shall be submitted by the Department to the Standing Committee for appropriate consideration. A proposed revision of a standard older than 5 years at the time such proposed revision is submitted to the Department by the Standing Committee shall be processed as a proposed new standard under these procedures. The Standing Committee, reconstituted as appropriate by the Department, will serve the same functions in the revisions of a standard as the Standard Review Committee serves in the development of a new standard. A proposed revision of a standard 5 years old or less may be published by the Department if it meets the requirements of these procedures for the publication of a new standard except that distribution for acceptance or rejection shall be made to a list compiled by the Department, which list shall include acceptors of record and others deemed by the Department to be appropriate. The acceptors of record of a standard are those parties who responded to the distribution for acceptance or rejection at the time the standard was last revised, or, if the standard has not been revised, the parties who responded to the original distribution for acceptance or rejection. For purposes of this paragraph, the age of a standard shall be computed from the date of its last revision, or, if it has not been revised, from the date of original issuance.

(c) An amendment to a standard shall be considered by the Department to be any change that would not directly affect the conformance or nonconformance of a product with the standard. Each suggestion for an amendment shall be submitted by the Department to the Standing Committee for appropriate consideration. An amendment to a standard recommended by the Standing Committee and found acceptable by the Department, will be published and distributed to acceptors of record and to any others as may be deemed appropriate by the Department. Changes deemed by the Department to be merely editorial

in nature may be published at any time without prior notice.

(d) The Department may, at any time after receiving a recommended revision or a recommended amendment from a Standing Committee, and prior to publication, make editorial or other minor changes which are deemed necessary to reduce ambiguity or improve clarity within the standard: *Provided, however,* That no substantive changes shall be made in the standard.

§ 10.11 Withdrawal of a published standard.

(a) Any standard published under these or any previous procedures may be withdrawn by the Department at any time. Such action will be taken, if, after consultation with the Standing Committee, as provided in paragraph (b) of this section, and after public notice, the Department determines that the standard is obsolete, technically inadequate, no longer generally acceptable to and used by the industry, inconsistent with law or established public policy, not in the public interest, or otherwise inappropriate, and revision or amendment is not feasible or would serve no useful purpose.

(b) Before withdrawing a published standard the Department will review the relative advantages and disadvantages of amendment, revision, development of a new standard, or withdrawal, with the members of the Standing Committee for that standard, if such committee was appointed within the previous 5 years.

(c) Public notice of intent to withdraw an existing standard will be given and a 30-day period will be provided for the filing of written objections to the withdrawal. Such objections to the withdrawal will be considered and analyzed by the Department before a final decision is made to withdraw the standard. The Department will give public notice of the withdrawal of an existing standard not less than 60 days prior to the effective date of such withdrawal.

(d) Withdrawal will terminate the authority to refer to the published standard as a voluntary standard developed under Department of Commerce procedures, from the effective date of the withdrawal.

§ 10.12 Effect of procedures.

These procedures supersede all commodity standards procedures previously issued by the Department of Commerce or any of its offices or bureaus, but current commodity standards published under any such superseded procedures will remain in effect as Voluntary Product Standards. Nothing contained in these procedures shall be deemed to apply to the development, publication, revision, amendment, or withdrawal of any standard which is not identified as a "Voluntary Product Standard" by the Department. The authority of the Department with respect to engineering standards activities generally, including the authority to publish appropriate recommendations not identified as "Voluntary Product Standards," is not limited in any way by these procedures.

Dated: December 17, 1968.

JOHN F. KINCAID,
Assistant Secretary for Science and Technology.

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 128]

HUMAN FOODS

Current Good Manufacturing Practice (Sanitation) in Manufacturing, Processing, Packing, or Holding

In the FEDERAL REGISTER of December 15, 1967 (32 F.R. 17980), the Commissioner of Food and Drugs proposed the promulgation of Part 128 covering current good manufacturing practice (sanitation) in the manufacture, processing, packing, or holding of human foods. Comments were received in response thereto which have resulted in significant changes in the proposed regulations, and the Commissioner concludes that a revised proposal should be published as set forth below.

These regulations would establish criteria for good manufacturing practices for effective sanitation control in the manufacture, processing, packing, or holding of human foods to effect compliance with section 402(a)(4) of the Federal Food, Drug, and Cosmetic Act. They set forth standards of sanitary food processing that would result in a clean and wholesome end product. Some of these standards are expressed in mandatory terms; others are directory. All should be observed to satisfy the requirements of current good sanitation practice in food processing and holding.

While these regulations would establish general criteria for the human food industry, they would not apply to those establishments engaged solely in the harvesting, storage, or distribution of one or more raw agricultural commodities, as defined in section 201(r) of the Act, which are ordinarily cleaned, prepared, treated, and/or otherwise processed before being marketed to the consuming public. The Commissioner believes that if necessary special regulations should be developed for operations in this category.

Any interested person not within the exception for raw agricultural commodities, who believes circumstances warrant an exception and special regulations for his operation, may submit a request for exception together with a written justification in support of the request addressed to the Commissioner, Food and Drug Administration, 200 C Street SW., Washington, D.C. 20204. Additional specific regulations establishing criteria for particular segments of the food industry will be the subject of appendices to these general regulations.

Therefore, pursuant to the provisions of the Act (secs. 402(a)(4), 701(a), 52 Stat. 1046, 1055; 21 U.S.C. 342(a), 371(a)) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes that a new Part 128 be added to Title 21, Chapter I, as follows:

PART 128—HUMAN FOODS; CURRENT GOOD MANUFACTURING PRACTICE (SANITATION) IN MANUFACTURE, PROCESSING, PACKING, OR HOLDING

Sec.
128.1 Definitions.
128.2 Current good manufacturing practice (sanitation).
128.3 Plant and grounds.
128.4 Equipment and utensiles.
128.5 Sanitary facilities and controls.
128.6 Sanitary operations.
128.7 Processes and controls.
128.8 Personnel.

AUTHORITY: The provisions of this Part 128 issued under secs. 402(a)(4), 701(a), 52 Stat. 1046, 1055; 21 U.S.C. 342(a)(4), 371(a).

§ 128.1 Definitions.

The definitions and interpretations contained in section 201 of the Federal Food, Drug, and Cosmetic Act are applicable to such terms when used in this part. The following definitions shall also apply:

(a) "Adequate" means that which is needed to accomplish the intended purpose in keeping with good public health practice.

(b) "Readily cleanable" means accessible and of such design, material, and finish that residues from or caused by processing operations may be removed by normal in-place or disassembly cleaning methods.

(c) "Plant" means the building or buildings, or parts thereof, used for or in connection with the manufacturing, processing, packaging, labeling, or holding of human food.

(d) "Sanitize" means adequate treatment of surfaces by a process that is effective in destroying vegetative cells of pathogenic bacteria and in substantially reducing other micro-organisms. Such treatment shall not adversely affect the product and shall be safe for the consumer.

§ 128.2 Current good manufacturing practice (sanitation).

The criteria in §§ 128.3 through 128.8 shall apply in determining whether the facilities, methods, practices, and controls used in the manufacture, processing, packing, or holding of food are in conformance with or are operated or administered in conformity with good manufacturing practices to assure that food for human consumption has been prepared, packed, and held under sanitary conditions.

§ 128.3 Plants and grounds.

(a) *Grounds.* The grounds about a food plant under the control of the operator shall be free from conditions incompatible with food manufacturing, processing, packing, or holding operations including, but not limited to, the following:

(1) Improperly stored equipment, litter, waste, refuse, and uncut weeds or grass within the immediate vicinity of the plant buildings or structures that may constitute an attractant, breeding place, or harborage for rodents, insects, and other pests.

(2) Excessively dusty roads, yards, or parking lots that may constitute a source of insanitation in areas where food is exposed.

(3) Inadequately drained areas that may contribute contamination to food products through seepage or foot-borne filth and by providing a breeding place for insects or micro-organisms.

If the plant grounds are bordered by grounds not under the operator's control of the kind described in subparagraphs (1)–(3) of this paragraph, care must be exercised in the plant by inspection, extermination, or other means to effect exclusion of pests, dirt, and other filth that may be a source of food contamination.

(b) *Plant construction and design.* Plant buildings and structures shall be suitable in size, construction, and design to facilitate maintenance and sanitary operations for food-processing purposes. The plant and facilities shall:

(1) Provide sufficient space for orderly placement and operation of equipment and storage and processing of materials used in any of the operations. Floors, walls, and ceilings in the plant shall be of such construction as to be readily cleanable and shall be kept clean and in good repair. Fixtures, ducts, and pipes shall not be suspended over working areas so that drip or condensate may contaminate foods, raw materials, or food-contact surfaces. Aisles or working spaces between equipment and between equipment and walls shall be unobstructed and of sufficient width to permit employees to perform their duties without contamination of food or food-contact surfaces with clothing or personal contact.

(2) Provide separation by partition, location, or other effective means for those operations which may cause cross-contamination of food products with micro-organisms, chemicals, filth, or other extraneous material.

(3) Provide adequate lighting to hand-washing areas, dressing and locker rooms, and toilet rooms and to all areas where food or food ingredients are examined, processed, or stored and where equipment and utensils are cleaned. Light bulbs, fixtures, skylights, or other glass suspended over exposed food in any step of preparation shall be of the safety type or otherwise protected to prevent food contamination in case of breakage.

(4) Provide adequate ventilation or control equipment to minimize odors and noxious fumes or vapors (including steam) in areas where they may contaminate food. Such ventilation or control equipment shall not create conditions that may contribute to food contamination by airborne contaminants.

(5) Provide, where necessary, effective screening or other protection against birds, animals, and vermin (including, but not limited to, insects and rodents).

§ 128.4 Equipment and utensils.

All plant equipment and utensils should be suitable for their intended use and so designed and of such material and workmanship as to be adequately cleanable and should be maintained in good repair. The design, construction, and use of such equipment and utensils shall preclude the adulteration of food with lubricants, fuel, metal fragments, contaminated water, or any other contaminants. All equipment shall be so installed and maintained as to facilitate the cleaning of the equipment and of all adjacent spaces.

§ 128.5 Sanitary facilities and controls.

Each plant shall be equipped with adequate sanitary facilities and accommodations including, but not limited to, the following:

(a) *Water supply.* The water supply shall be sufficient for the operations intended. Any water that contacts food shall be of a safe and sanitary quality and derived from a water supply system that is constructed, protected, operated, and maintained in an adequate manner. Running water at a suitable temperature and under pressure as needed shall be provided in all areas where foods are processed or equipment, utensils, or containers are cleaned or where employee sanitary facilities require.

(b) *Sewage disposal.* Sewage disposal shall be made into an adequate sewerage system.

(c) *Plumbing.* Plumbing shall be of adequate size and design and adequately installed and maintained to:

(1) Carry sufficient quantities of water to required locations throughout the plant.

(2) Properly convey sewage and liquid, disposable waste from the plant to the sewerage or waste disposal system.

(3) Not constitute a source of contamination to foods, food products or ingredients, water supplies, equipment, or utensils, or create an insanitary condition.

(4) Provide adequate floor drainage in all areas where floors are subject to flooding-type cleaning or where normal operations release or discharge water or other liquid waste on the floor.

(d) *Toilet facilities.* Each plant shall provide its employees with adequate toilet and associated hand-washing facilities within the plant structure. Toilet rooms shall be furnished with toilet tissue. The facilities shall be maintained in a sanitary condition and kept in good repair at all times. Doors to toilet rooms shall be self-closing and shall not open directly into areas where food is exposed to airborne contamination, except where alternate means have been taken to prevent such contamination (such as double doors, positive air-flow systems, etc.). Signs shall be posted directing employees to wash their hands with cleaning soap or detergents after using toilet.

(e) *Hand-washing facilities.* Adequate and convenient facilities for hand washing and, where appropriate, hand sanitizing shall be provided at each location in the plant where good sanitary practices require employees to wash or sanitize and dry their hands. Such facilities shall be furnished with running water at a suitable temperature for hand washing, effective hand-cleaning and sanitizing preparations, sanitary towel service or suitable drying devices, and, where appropriate, easily cleanable waste receptacles.

(f) *Rubbish and offal disposal.* Rubbish and any offal shall be so conveyed, stored, and disposed of as to minimize the development of odor, prevent waste from becoming an attractant and harborage or breeding place for vermin, and prevent contamination of food, food-contact surfaces, ground surfaces, and water supplies.

§ 128.6 Sanitary operations.

(a) *General maintenance.* Buildings, fixtures, and other physical facilities of the plant shall be kept in good repair and shall be maintained in an orderly, sanitary condition. Cleaning operations shall be conducted in such a manner as to minimize the danger of contamination of food and food-contact surfaces. Detergents, sanitizers, and other supplies employed in cleaning and sanitizing procedures shall be free of significant microbiological contamination and shall be safe and effective for their intended uses. Only such toxic materials as are required to maintain sanitary conditions, for use in laboratory testing procedures, for equipment maintenance and operation, or in manufacturing or processing operations shall be used or stored in the plant. These materials shall be identified and used only in such manner and under conditions as will be safe for their intended uses.

(b) *Animal and vermin control.* No animals or birds, other than those essential as raw material, shall be allowed in any area of a food plant. Effective measures shall be taken to exclude pests from the processing areas and to protect against the contamination of foods in or on the premises by animals, birds, and vermin (including, but not limited to, rodents and insects). The use of insecticides or rodenticides is permitted only under such precautions and restrictions as will prevent the contamination of food or packaging materials with illegal residues.

(c) *Sanitation of equipment and utensils.* All utensils and product-contact surfaces of equipment shall be cleaned as frequently as necessary to prevent contamination of food and food products. Nonproduct-contact surfaces of equipment used in the operation of food plants should be cleaned as frequently as necessary to minimize accumulation of

dust, dirt, food particles, and other debris. Single-service articles (such as utensils intended for one-time use, paper cups, paper towels, etc.) should be stored in appropriate containers and handled, dispensed, used, and disposed of in a manner that prevents contamination of food or food-contact surfaces. Where necessary to prevent the introduction of undesirable microbiological organisms into food products, all utensils and product-contact surfaces of equipment used in the plant shall be cleaned and sanitized prior to such use and following any interruption during which such utensils and contact surfaces may have become contaminated. Where such equipment and utensils are used in a continuous production-line basis, the contact surfaces of such equipment and utensils shall be cleaned and sanitized on a predetermined schedule using adequate methods for washing and sanitizing. Sanitizing agents shall be effective and safe under conditions of use. Any facility, procedure, machine, or device may be acceptable for cleaning and sanitizing equipment and utensils if it is established that such facility, procedure, machine, or device will routinely render equipment and utensils clean and provide adequate sanitizing treatment.

(d) *Storage and handling of cleaned portable equipment and utensils.* Cleaned and sanitized portable equipment and utensils with product-contact surfaces should be stored in such a location and manner that product-contact surfaces are protected from splash, dust, and other contamination.

§ 128.7 Processes and controls.

All operations in the receiving, inspecting, transporting, packaging, segregating, preparing, processing, and storing of food shall be conducted in accord with adequate sanitation principles. Overall sanitation of the plant shall be under the supervision of an individual assigned responsibility for this function. All reasonable precautions, including the following, should be taken to assure that production procedures do not contribute contamination such as filth, harmful chemicals, undesirable molds and other micro-organisms, or any other objectionable material to the processed product:

(a) Raw material and ingredients shall be inspected and segregated as necessary to assure that they are clean, wholesome, and fit for processing into human food and shall be stored under conditions that will protect against contamination and minimize deterioration. Raw materials shall be washed or cleaned as required to remove soil or other contamination. Water used for washing, rinsing, or conveying of food products shall be of adequate quality, and water shall not be reused for washing, rinsing, or conveying products in a manner that may result in contamination of food products.

(b) Containers and carriers of raw ingredients should be inspected on receipt to assure that their condition has not contributed to the contamination or deterioration of the products.

(c) When ice is used in contact with food products, it shall be made of potable water and shall be used only if it has been manufactured in accordance with adequate standards and stored, transported, and handled in a sanitary manner.

(d) Food-processing areas and equipment used for processing human food should not be used to process nonhuman food-grade animal feed or inedible products unless there is no reasonable possibility for the contamination of the human food.

(e) Processing equipment shall be maintained in a sanitary condition through frequent cleaning including sanitization where indicated. Insofar as necessary, equipment shall be taken apart for thorough cleaning.

(f) All food processing, including packaging and storage, should be conducted under such conditions and controls as are necessary to minimize the potential for undesirable bacterial or other microbiological growth, toxin formation, or deterioration or contamination of the processed product or ingredients. This may require careful monitoring of such physical factors as time, temperature, humidity, pressure flow-rate and such processing operations as freezing, dehydration, heat processing, and refrigeration to assure that mechanical breakdowns, time delays, temperature fluctuations, and other factors do not contribute to the decomposition or contamination of the processed products.

(g) Chemical, microbiological, or extraneous-material testing procedures shall be utilized where necessary to identify sanitation failures or food contamination, and all foods and ingredients that have become contaminated shall be rejected or treated or processed to eliminate the contamination where this may be properly accomplished.

(h) Packaging processes and materials shall not transmit contaminants or objectionable substances to the products, shall conform to any applicable food additive regulation (21 CFR Part 121), and should provide adequate protection from contamination.

(i) Meaningful coding of products sold or otherwise distributed from a manufacturing, processing, packing, or repacking activity should be utilized to enable positive lot identification to facilitate, where necessary, the segregation of specific food lots that may have become contaminated or otherwise unfit. Records should be retained for a period of time that exceeds the shelf life of the product, but not more than 2 years.

(j) Storage and transportation of finished products should be under such conditions as will prevent contamination, including development of pathogenic or toxigenic micro-organisms, and will protect against undesirable deterioration of the product and the container.

§ 128.8 Personnel.

The plant management shall take all reasonable measures and precautions to assure the following:

(a) *Disease control.* No person affected by disease in a communicable form, or while a carrier of such disease, or while affected with boils, sores, infected wounds, or other abnormal sources of microbiological contamination, shall work in a food plant in any capacity in which there is a reasonable possibility of food or food ingredients becoming contaminated by such person, or of disease being transmitted by such person to other individuals.

(b) *Cleanliness.* All persons, while working in direct contact with food processing, food ingredients, or their contact surfaces shall:

(1) Wear clean outer garments, maintain a high degree of personal cleanliness, and conform to hygienic practices while on duty, to the extent necessary to prevent contamination of food products.

(2) Wash their hands thoroughly (and sanitize if necessary to prevent contamination by undesirable micro-organisms) in an adequate hand-washing facility before starting work, after each absence from the work station, and at any other time when the hands may have become soiled or contaminated.

(3) Remove all insecure jewelry and, during periods where food is manipulated by hand, remove from hands any jewelry that cannot be adequately sanitized.

(4) If gloves are used in food handling, maintain them in an intact, clean, and sanitary condition. Such gloves should be of an impermeable material except where their usage would be inappropriate or incompatible with the work involved.

(5) Wear hair nets, headbands, caps, or other effective hair restraints.

(6) Not store clothing or other personal belongings, eat food or drink beverages, or use tobacco in any form in areas where food or food ingredients are exposed or in equipment- and utensil-washing areas.

(7) Take any other necessary precautions to prevent contamination of foods with micro-organisms or foreign substances including, but not limited to, perspiration, hair, cosmetics, tobacco, chemicals, and medicants.

(c) *Education and training.* Personnel responsible for identifying sanitation failures or food contamination shall have a background of education or experience, or a combination thereof, to provide a level of competency necessary for production of clean and safe food. Food handlers and supervisors should receive appropriate training in proper food-handling techniques and food-protection principles and should be cognizant of the danger of poor personal hygiene and insanitary practices.

(d) *Supervision.* Responsibility for assuring compliance by all personnel with all requirements of this Part 128 shall be clearly assigned to competent supervisory personnel.

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) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof.

Dated: December 11, 1968.

HERBERT L. LEY, Jr.,
Commissioner of Food and Drugs.

[F.R. Doc. 68-15186; Filed, Dec. 19, 1968; 8:47 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Airworthiness Docket No. 68-SW-65]

AIRWORTHINESS DIRECTIVE

North American Rockwell (Aero Commander) Model 1121 Series Airplanes; Extension of Comment Period

On October 4, 1968, a notice of proposed rule making was published in the FEDERAL REGISTER (33 F.R. 14887) inviting comments regarding the proposed amendment of Part 39 of the Federal Aviation Regulations by issuing an airworthiness directive requiring modification of the hcrizontal stabilizer trim system to correct nose down trim capability in the approach configuration at the aft center of gravity limit on certain Aero Commander Model 1121 Series airplanes.

The notice stated that consideration would be given all comments received within 30 days after the above publication date. The Aero Commander Service Bulletin referred to in the proposed amendment was not issued by the company due to a determination concerning parts availability. Later, Aero Commander Service Bulletin No. J-4A, dated November 27, 1968, was issued superseding Service Bulletin No. J-4. By telegram, dated October 23, 1968, the National Business Aircraft Association requested an extension of time for making comment.

It has been determined that an extension of the comment period would be in the public interest to assure that all interested persons have been afforded an opportunity to study and comment on the proposal. Therefore, pursuant to the authority delegated to me by the Administrator, the time within which comments on this Notice will be received is extended to January 1, 1969.

Issued in Fort Worth, Tex., on December 13, 1968.

HENRY L. NEWMAN,
Director, Southwest Region.

[F.R. Doc. 68-15208; Filed, Dec. 19, 1968; 8:49 a.m.]

[14 CFR Parts 43, 121, 127]

[Docket No. 8125, Notice 68-35]

AIR CARRIERS AND COMMERCIAL OPERATORS

Content, Form, and Disposition of Maintenance and Related Records

The Federal Aviation Administration is considering amending Parts 43, 121, and 127 of the Federal Aviation Regulations with regard to the content, form, and disposition of maintenance and related records that are required to be kept by air carriers and commercial operators of large aircraft and helicopters. This proposal would impose a new recording requirement for major repairs and major alterations; however, it would delete the requirement to retain records of major repairs and major alterations for retired aircraft past the date of cancellation of the registration certificate. The proposal would clarify the requirements for retention of overhaul records, delete present requirements relating to records of designated critical products, appliances, and parts, and make new provisions for airworthiness directive compliance records. Finally, it is proposed to remove from Part 43 all requirements for maintenance and related records of air carriers and commercial operators and place them in Part 121 and Part 127, as applicable.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket or notice number and be submitted in duplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. All communications received on or before March 20, 1969, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this 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.

Regulations concerning content, form, and disposition of maintenance and related records for certificated air carriers and commercial operators are presently contained in Part 43. It is considered that such regulations would be more meaningful and better serve their purpose if they were made a part of the appropriate operating rules governing maintenance and records for air carriers and commercial operators. Accordingly, it is proposed to take the recording and record requirements from Part 43 and place them in Parts 121 and 127. For continuity, § 43.9(b) would be amended to make a suitable cross-reference.

Maintenance record entries currently require inclusion of the name of the person performing the work. However, where the work is done by the certificate holder itself, under the broad definition of "person," the name that in many cases would be entered would be the company name of the air carrier or commercial operator. It is, therefore, proposed to amend this particular requirement to require a record of the name of the person performing the work only if the work is performed by a person outside the organization of the certificate holder.

Other information currently required to be recorded includes the signature of the person approving a product or appliance for return to service. Under this proposal, the signature requirement would be deleted and there would be substituted a requirement for only the name or other identification of the individual approving the work. This change in procedure is consistent with the widespread adoption of electronic data processing systems which do not lend to handwritten signature recording. As proposed, recording by electronic data processing would be approved in a particular case if the system provided for preservation and retrieval of information in a manner acceptable to the Administrator.

Section 43.9(b) currently contains recording requirements for special tests applicable to products, appliances, and parts that are "designated as critical by the Administrator." However, with the advent of X-ray, sonic, magnetic, and other nondestructive test methods, inspection procedures have become routine so that it has been unnecessary for the Administrator to designate any aircraft components as "critical." Accordingly, it is proposed that all recording and record retention requirements relating to critical aircraft components be deleted.

This proposal would clarify and amend the retention requirements for all maintenance, alteration, and airworthiness directive compliance records for aircraft and components. The general rule in this regard is that such records will be retained by the certificate holder operating the product or appliance from the time the product or appliance is new or rebuilt until it is rebuilt or retired. To this rule there are a number of exceptions, some of which represent departures from the current regulations. Thus, detailed records of major structural repairs and major alterations, presently required to be kept until the aircraft is sold, or transferred or until 1 year after cancellation of registration certificates in the event of retirement, would be treated as records of other repairs and alterations. Also, overhaul records would be kept only for the last complete overhaul, so that as a repetitive phase of the overhaul schedule was completed, the record of that phase previously accomplished need no longer be retained.

In addition to clarification of the present retention requirements for overhaul records, this proposal would amend the general 1-year maintenance record retention requirements in other respects. Thus, records of maintenance (other than overhaul, major repairs, major alterations, and airworthiness directive compliance) would be retained only until the work was repeated or superseded by

other maintenance or alteration, or until the product was overhauled, or for 1 year after the product to which the record pertains was placed in service, whichever event occurred first. In the case of appliances, a similar procedure would be in effect, except that records of all maintenance (except for overhaul) and alterations would be retained for 2 years from the time the maintenance or alteration was performed.

The foregoing recording and retention requirements pertain to the detailed maintenance and alteration records. However, in addition to these records, it is considered advisable to require a record of each major repair, major alteration, rebuilding, and airworthiness directive compliance. As here proposed, such record would include identification of the approved data under which the work was performed, the name of the individual approving the work, and the date of approval. The record would be retained only until the work was superseded or until the product was sold or retired. The proposal would also require that upon sale of an aircraft, records must be transferred in plain language form except that the transferee could elect to receive EDP records in coded form. However, in the latter case, the transferee would be required to have a system that provides for the preservation and retrieval of information in a manner acceptable to the Administrator.

It should also be noted that in the event of an aircraft accident, all of these maintenance records become subject to the preservation requirements of the National Transportation Safety Board (NTSB) as set forth in Part 430 of their regulations. Furthermore, the Civil Aeronautics Board has requirements governing the preservation of maintenance and overhaul records set forth in Part 249 of their regulations.

In view of the placement of maintenance and related record requirements in Parts 121 and 127, current sections of those parts should be retitled to more clearly reflect their purpose. Accordingly, to avoid confusion, the catchlines of §§ 121.689 and 127.309 would be changed to reflect applicability of those sections to time in service records rather than to maintenance records.

In consideration of the foregoing, it is proposed to amend Parts 43, 121 and 127, as follows:

1. By amending § 43.9(b) to read as follows:

§ 43.9 Content, form, and disposition of maintenance, rebuilding, and alteration records (except 100-hour, annual, and progressive inspections).

* * * * *

(b) Each holder of an air carrier or commercial operator certificate that is required by its operating certificate or by approved operation specifications to provide for a continuous airworthiness maintenance program, shall make a record of all maintenance, rebuilding, and alteration, and compliance with airworthiness directives, on aircraft (including airframes, engines, propellers, and appliances) which it operates, in accordance with the provisions of Part 121 or Part 127, as appropriate.

2. By adding a new § 121.380 following § 121.379 in Part 121 to read as follows:

§ 121.380 Maintenance recording requirements.

(a) Each certificate holder shall make a record of all maintenance, rebuilding, and alteration, and compliance with airworthiness directives, on aircraft (including airframes, aircraft engines, propellers, appliances, or part thereof) operated by such holder. Recording shall be by any suitable system, including electronic data processing, that provides for preservation and retrieval of information in a manner acceptable to the Administrator.

(b) Except for records of airworthiness directive compliance, major repairs, major alterations and rebuilding, the records required by paragraph (a) shall include the following:

(1) A description (or reference to data acceptable to the Administrator) of the work performed.

(2) The date of completion of the work performed.

(3) The name of the person performing the work if the work is performed by a person outside the organization of the certificate holder.

(4) The name or other positive identification of the individual approving the work.

(c) Records of airworthiness directive compliance, major repairs, major alterations, and rebuilding shall include the following:

(1) The identification of the approved data under which the work was performed.

(2) The name or other positive identification of the individual approving the work.

(3) The date of approval.

3. By amending Subpart J of Part 127 by renumbering §§ 127.141, 127.143, 127.145, and 127.147 as §§ 127.143, 127.145, 127.147, and 127.149, respectively, and adding a new § 127.141, following § 127.140, to read the same as proposed new § 121.380 in item 2 above.

4. By amending Part 121 by adding a new § 121.698, following § 121.697, to read as follows:

§ 121.698 Retention of maintenance and related records.

Each certificate holder shall retain the following records pertaining to all aircraft (including airframe, engines, propellers, and appliances) operated by it:

(a) For aircraft, airframes, engines, and propellers—

(1) The record of each airworthiness directive compliance, major repair, major alteration and rebuilding required by § 121.380(c) shall be retained until such work is superseded by like work or until the product on which such work was performed is sold or retired;

(2) Overhaul records shall be retained of the last complete overhaul; and

(3) Maintenance and alteration records (other than as provided for in (1) and (2)) shall be retained until the earliest of the following events:

(i) The maintenance or alteration is repeated or superseded by other maintenance or alteration.

(ii) The product on which the maintenance or alteration was performed is subsequently overhauled.

(iii) One year after the product on which the maintenance or alteration was performed is placed in service.

(b) For appliances—

(1) Overhaul records shall be retained of the last overhaul; and

(2) Maintenance (except for overhaul) and alteration records shall be retained for 2 years.

(c) All maintenance, rebuilding, alteration, and airworthiness directives compliance records required to be kept at the time a product or appliance is sold shall be given to the new owner or operator. All such records shall be in plain language form except that the transferee may elect to receive electronic data processing records in coded form subject to the preservation and retrieval of information requirements of § 121.380.

5. By amending Part 127 by adding a new § 127.308 following § 127.307 to read the same as proposed new § 121.698 in item 4 above, except that internal references will be to § 127.141 instead of § 121.380.

6. By amending the headings of §§ 121.699 and 127.309 to read "Time in service records" in place of "Maintenance records".

These amendments are proposed under the authority of sections 313(a), 601, and 605 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1425), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655 (c)).

Issued in Washington, D.C., on December 13, 1968.

EDWARD C. HODSON,
Acting Director,
Flight Standards Service.

[F.R. Doc. 68-15207; Filed, Dec. 19, 1968; 8:49 a.m.]

[14 CFR Parts 71, 73]

[Airspace Docket No. 68-WE-94]

RESTRICTED AREA AND CONTROLLED AIRSPACE

Proposed Designation and Alteration

The Federal Aviation Administration is considering amendments to Parts 71 and 73 of the Federal Aviation Regulations that would designate a restricted area near Blythe, Calif., and alter the description of the continental control area to reflect the establishment of the restricted area.

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, Western Region, Attention:

Chief, Air Traffic Division, Federal Aviation Administration, 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 amendments. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

On October 12, 1967, Airspace Docket No. 67–WE–10 was published in the FEDERAL REGISTER (32 F.R. 14154) designating Restricted Area R–2532 Blythe, Calif., for the period December 7, 1967, through December 7, 1968. The Department of Navy has now stated a requirement for the continued use of R–2532 for the reasons stated in the original notice of proposed rule making (32 F.R. 8422).

Flights of two or more aircraft would be scheduled into the area commencing shortly after sunrise and continuing throughout the day until sunset. No night operations would be conducted and no ordnance is to be expended during these training flights. Scheduling would normally be 6 days a week, Monday through Saturday, with Sunday operations only as required to meet training deadlines. If established it is estimated that units will utilize the restricted area approximately 75 hours per week. Ground radar will not be available during these operations. Additionally, the Federal Aviation Administration proposes a time limit of 24 months on the designation of this area.

In consideration of the foregoing, the Federal Aviation Administration proposes the airspace actions as hereinafter set forth.

1. R–2532 Blythe, Calif., would be designated as follows:

BOUNDARIES

Beginning at lat. 33°30'30'' N., long. 115°-00'00'' W.; thence counterclockwise along the arc of an 18-mile radius circle centered on the Blythe, Calif., airport at lat. 33°37'15'' N., long. 114°43'00'' W.; to lat. 33°23'50'' N., long. 114°53'00'' W.; to lat. 33°08'45'' N., long. 114°56'40'' W.; to lat. 33°22'50'' N., long. 115°09'58'' W.; to lat, 33°21'40'' N., long. 115°12'00'' W.; to lat. 33°24'15'' N., long. 115°17'00'' W.; to lat. 33°25'50'' N., long. 115°14'30'' W.; thence to point of beginning.

Time of designation. Sunrise to sunset for 24 months from date of designation.

Designated altitudes. 100 feet AGL to 17,000 feet MSL.

Controlling agency. FAA, Los Angeles ARTC Center.

Using agency. MCAS, Yuma, Ariz.

2. The description of the continental control area would be altered to include R–2532.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on December 13, 1968.

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

[F.R. Doc. 68–15209; Filed, Dec. 19, 1968; 8:49 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 74]

[Docket No. 18397; FCC 68–1176]

COMMUNITY ANTENNA TELEVISION SYSTEMS

Development of Communications Technology and Services

In the matter of amendment of Part 74, Subpart K, of the Commission's rules and regulations relative to community antenna television systems; and inquiry into the development of communications technology and services to formulate regulatory policy and rule making and/or legislative proposals, Docket No. 18397.

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

I. *Nature and scope of this proceeding.* 2. The purpose of this proceeding is to explore the broad question of how best to obtain, consistent with the public interest standard of the Communications Act, the full benefits of developing communications technology for the public, with particular immediate reference to CATV technology and potential services, and the nature of any regulations and/or proposed legislation that may be necessary or desirable to further this goal. Many of the matters discussed below (see Parts II and V) have wide ramifications and pertain to other industries in addition to CATV. While this exploration is sparked by CATV development, our consideration of these matters necessarily entails a much broader perspective. We believe that a far-ranging, overall view is necessary if the Commission is to come to grips with this dynamic field and succeed in its efforts to assure the public of the most efficient and effective nationwide communications service possible.

3. The Commission is hopeful that this proceeding will provide meaningful and practical assistance to its consideration of regulatory problems which may require resolution within the next decade or so. We plan to utilize the proceeding to obtain informed opinion, technical information and present viewpoints of interested persons, for the inauguration of discussion of new questions as they arise, as a vehicle for rule making action at appropriate stages, and as a basis for the formulation of legislative proposals. Therefore, further notices expanding or altering the scope of this rule making and inquiry may subsequently be issued as necessary or appropriate. Any of the matters encompassed in this proceeding may be the subject of rule making actions within the Commission's present statutory authority or within any authority subsequently conferred by the Congress. Moreover, certain of the topics we intend to explore, particularly those requiring consideration of extensive economic or technical analysis, may be contracted out for special studies.[1] At the same time, some of the areas delineated below are of particular and immediate concern, and may require prompt regulatory action within the Commission's present authority. Accordingly, it is contemplated that rules may be adopted in some areas specified below, without issuance of a further notice.

II. *Background.* 4. The Commission has long recognized that CATV is rapidly evolving from its original role as a small, five-channel, reception service bringing television broadcast signals to areas which lack broadcast service or do not receive the full services of the three national networks. In the First and Second CATV Reports,[2] we discussed at some length the trend of CATV, at that time, toward 12 channel systems and its proposed entry into large metropolitan centers. It now appears that cable technology may be on the verge of expanding system capacity to 20 or more channels, and that a variety of new services to the public are envisioned.

5. Thus, we note that the CATV industry generally is placing increased emphasis on program origination, both of a local public service nature and of the entertainment type,[3] and on the provision of other services to the public. The Commission recently authorized a test of unrestricted program origination without commercials by CATV systems in the San Diego area, and conditioned the carriage of broadcast signals by one system upon a requirement that it operate to a significant extent as an outlet for noncommercial community self-expression. Midwest Television, Inc., 13 FCC 478, 503–508, 510. In so doing, the Commission stated (13 FCC 2d at 505-506):

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[1] Moreover, it may be necessary for the Commission to expand its own research efforts in order not only to keep abreast of technology, but also to conduct studies (technical, economic, and social) of a type which would not normally be conducted by private industry or other government agencies. Such studies would be in keeping with the responsibilities assigned to the Commission by the Communications Act, and are essential if the Commission is to be responsive to public needs and requirements in the field of communications.

[2] First Report and Order in Dockets Nos. 14895 and 15233, 38 FCC 683 (1965); Second Report and Order in Dockets Nos. 14895, 15233, and 15971, 2 FCC 2d 725 (1966).

[3] See, e.g., Television Digest, Mar. 11, 1968, page 5; New York Times, Oct. 18, 1968, page 87M.

CATV program origination offers promise as a means for increasing the number of local outlets for community self-expression and for augmenting the public's choice of programs and types of service, without use of spectrum. Whereas television broadcast stations are usually located in or near a central community and are intended to serve a much broader area encompassing other communities, almost every community of any appreciable size could have its own CATV system and therefore its own local outlet. The CATV system is not handicapped by limited channel capacity, having 12 channels in comparison to the one channel of the individual broadcaster, and thus has the technical flexibility to provide different types of programs or services on some channels without affecting the service simultaneously provided on other channels. Moreover, since the CATV operation is based on subscriber fees for the total package, the CATV operator is largely free of the broadcaster's economic requirement that the programing on each channel be such as to attract sufficient audience and advertising revenue to make operations on that channel viable per se. The CATV operator has more flexibility to present programing of minority interest on some channels. And, finally, CATV program origination does not entail the question of "unfair competition" posed by CATV importation of broadcast signals from another market (Second Report, 2 FCC 2d at 778–781), or any disparate situation with respect to copyright liability, and would be less likely to duplicate the programs of local broadcast stations. [Footnote omitted.]

The Commission also has pending before it a rule making proceeding to determine whether frequencies in the Community Antenna Relay Service should be used for the transmission of CATV originated program material (Notice of Proposed Rule Making in Docket No. 17999, 33 F.R. 3188).[4] The matter of cable subscription television is included among the issues in Docket No. 11279 (Further Notice of Proposed Rule Making and Notice of Inquiry in Docket No. 11279, 31 F.R. 5136).

6. There are other indications of impending CATV operations on a broader scale and in new areas of potential use. In New York City the Mayor's Advisory Task Force on CATV and Telecommunications has recommended, in a report dated September 14, 1968, that cable television service be made available to every home in that City within the next 2 or 3 years. It is contemplated that these CATV systems would initially have a minimum of 18 channels, of which 11 would be used to carry local television broadcast signals, three would be reserved for the exclusive use of the City (without charge to the latter), and four would be used for program origination. Each authorized cable television company would be permitted to use two of the program origination channels, one for the presentation of public service programs and the other for whatever programing it wished to offer, and would operate the other two channels as a common carrier making them available by lease to outside users who wish to present original programs.

[4] The Commission's rules governing the common carrier services do not prohibit such service to CATV systems.

7. The report to the Mayor of New York City also contemplates that new uses for cable television channels will develop as channel capacity is enlarged over the coming years. In a letter accompanying the report, the Task Force chairman states:

In conclusion, the promise of cable television remains a glittering one. While progress towards realizing this promise has been slow, there is now an abundance of venture capital ready and able to extend cable television throughout the City. For venture capital sees the possibility of rich rewards. Those who own these electronic circuits will one day be the ones who will bring to the public much of its entertainment and news and information, and will supply the communications links for much of the City's banking, merchandising, and other commercial activities. With a proper master plan these conduits can at the same time be made to serve the City's social, cultural, and educational needs. A master plan can be effective now. It will not be a decade hence if stopgap expedients prevail.

8. It has been suggested that the expanding multichannel capacity of cable systems could be utilized to provide a variety of new communications services to homes and businesses within a community, in addition to services now commonly offered such as time, weather, news, stock exchange ticker, etc. While we shall not attempt an all-inclusive listing, some of the predicted services include: Facsimile reproduction of newspapers, magazines, documents, etc.; electronic mail delivery; merchandising; business concern links to branch offices, primary customers or suppliers; access to computers, e.g., man to computer communications in the nature of inquiry and response (credit checks, airlines reservations, branch banking, etc.), information retrieval (library and other reference material, etc.), and computer to computer communications; the furtherance of various governmental programs on a Federal, State and municipal level, e.g., employment services and manpower utilization, special communications systems to reach particular neighborhoods or ethnic groups within a community, and for municipal surveillance of public areas for protection against crime, fire detection, control of air pollution and traffic; various educational and training programs, e.g., job and literacy training, preschool programs in the nature of "Project Headstart," and to enable professional groups such as doctors to keep abreast of developments in their fields; and the provision of a low cost outlet for political candidates, advertisers, amateur expression (e.g. community or university drama groups) and for other moderately funded organizations or persons desiring access to the community or a particular segment of the community.

9. It has been suggested further that there might be interconnection of local cable systems and the terminal facilities of high capacity terrestrial and/or satellite intercity systems, to provide numerous communications services to the home, business and educational or other center on a regional or national basis. The advent of CATV program origination in such cities as New York and Los Angeles (where there is also CATV activity) gives rise to the possibility of a CATV origination network or networks. The so-called "wired city" concept embraces the possibility that television broadcasting might eventually be converted, in whole or in part, to cable transmission (coupled with the use of microwave or other intercity relay facilities), thereby freeing some broadcast spectrum for other uses and making it technically feasible to have a greater number of national and regional television networks and local outlets. More broadly in the area of general communications, the present and future development of intercity facilities with very high communications capacity (e.g., the L5 coaxial cable, millimeter wave guides, communications by laser beams), coupled with the potential of the computer and communications satellite technologies,[5] may stimulate the provision of new nationwide or regional services of various kinds, which would require connection to high capacity communications facilities within the locality and from the street to the premises of the consumer. Another matter to be explored in this area is the expanding multichannel capacity of CATV (together with its proposed auxiliary use of high capacity, local microwave links)[6], including the question of whether it is technically and economically feasible for CATV to develop capability for two-way and switched services.

10. We shall first set forth the Commission's rule making proposals in the area of CATV program origination and related matters.

III. *Proposed rules concerning CATV program origination and related matters; technical standards; and reporting requirements.*

PROGRAM ORIGINATION

11. The increasing focus of the CATV industry on program origination raises questions which are imminent and require prompt rule making decisions by the Commission. We believe that the proposed rules discussed below are within the Commission's present statutory authority. However, here again, as we have

[5] E.g., an increasing link between bulk data transmission and computers, and the special attributes of the satellite technology in the provision of service from one transmission point to many reception points, and in greater system flexibility as compared to fixed terrestrial facilities. As the satellite technology becomes more sophisticated, it might be utilized for multiple access data services and computer links, specialized switched networks, and random networks utilizing some mobile ground equipment for occasional service requirements.

[6] E.g., Teleprompter Corp., 12 FCC 2d 936, 940–945 (File Nos. 3766–ER–ML–66; 4609–ER–CP–68; 4610–ER–CP–68); Chromalloy American Corp., experimental licenses for stations KB2XGW and KB2XFL (File Nos. 4536–ER–PL–68 and 4482–ER–PL–68).

previously stressed,[7] the Commission is clearly concerned with new and important questions of policy and law in the communications field, and would welcome Congressional guidance as to policy and legislation conferring direct general authority over CATV.

12. Preliminarily, we point out that we discuss below the possibility of the CATV operator leasing some channels on the system to others for the purpose of program origination or other communications services (see paragraph 26). The Commission is concerned about a common carrier acting as a program originator, and intends to return to this issue as the industry develops. Meanwhile, we believe that experimentation is most likely to come from CATV operators and that they should be encouraged both to originate themselves and to operate as common carriers on available channels to test the possible market.

13. It is the Commission's tentative conclusion that, for now and in general CATV program origination is in the public interest. The Commission has also noted that there may be a need for some regulation thereof, in order to insure operation fully consistent with the "public interest in the larger and more effective use of radio" (section 303(g) of the Communications Act, as amended). In Midwest Television, Inc., et al., 13 FCC 2d 478, 505–506, the Commission recognized the promise of CATV program origination as a means for increasing the number of local outlets for community self-expression and for augmenting the public's choice of programs and types of service, without use of broadcast spectrum (see quote in paragraph 5 above). We pointed out that almost every community of any appreciable size could have its own local CATV outlet, and that the CATV operator has greater technical and economic flexibility than the broadcaster to present programing of minority interest on some channels. We further noted that "CATV program origination does not entail the question of 'unfair competition' posed by CATV importation of broadcast signals from another market (Second Report, 2 FCC 2d at 778–781), or any disparate situation with respect to copyright liability, and would be less likely to duplicate the programs of local broadcast stations." (ibid.)

14. There are, of course, other important considerations, as we recognized in San Diego (13 FCC 2d at 505): "Such as whether television broadcast service would be adversely affected through a siphoning-off of popular program material now or potentially available on the free service or a loss of audience and advertising revenue; whether measures are needed to avoid an undue concentration of control of the media of mass communication; and whether CATV systems should be subject to requirements in the nature of section 315 of the Communications Act (equal time for political candidates), section 317 (sponsorship identification), and the 'fairness doctrine' (fair presentation of both sides of controversial issues of public importance), etc." However, the Commission's authority to regulate the use of broadcast signals as a base for CATV program origination encompasses power to adopt regulations reasonably designed to prevent such operations from having detrimental consequences to the public interest and to promote their development along lines likely to maximize the potential benefits to the public. On balance, we think that CATV origination offers sufficient promise to be encouraged. The proposed rules discussed below are the minimum measures we believe to be presently essential or desirable in the public interest.

[7] See, e.g., Notice of inquiry and notice of proposed rule making in Docket No. 15971, 1 FCC 2d 453, 465–466.

Required Origination

15. The Commission is proposing, first, to condition the carriage of television broadcast signals (local or distant) upon a requirement that the CATV system also operate to a significant extent as a local outlet by originating. In allocating frequencies and granting broadcast licenses, the Commission has long sought to effectuate the goal of section 307(b) of the Communications Act by having as large a number of local outlets in as many communities as possible. We have noted above the potential contribution of CATV in this respect, both as a means of providing a local outlet to communities which have no television broadcast outlet of their own and as a means of enhancing diversity in communities which do have broadcast outlets. We have also previously determined that the Commission's concern with CATV carriage of broadcast signals is not just a matter of avoidance of adverse effects, but extends also to requiring CATV affirmatively to further statutory policies Shen-Heights TV Association, 11 FCC 2d 814; Midwest Television, Inc., 13 FCC 2d at 502–503, 510.

16. We think it generally appropriate to condition CATV's use of broadcast signals upon a requirement that it further the allocations policy of achieving a multiplicity of local outlets. There may, however, be practical limitations stemming from the size of some CATV systems. Accordingly, consideration will be given to exempting the smallest systems. Comments are requested as to a reasonable cutoff point in light of the cost of the equipment and personnel minimally necessary for local originations. See also paragraph 26, below.

Economic Basis for Origination—Advertising

17. We turn now to the complex issue of regulation of advertising material in connection with CATV origination. The Commission has reached no definitive conclusion as to the number of possible alternatives here. One, of course, is no regulation at all of this aspect. Another proposal would be to adopt rules, along the lines of the provision in the San Diego order, which would generally prohibit CATV systems from carrying the signal of any television broadcast station if the system originates advertising material (except as indicated in paragraph 26, below). In placing this condition on the San Diego test of CATV program origination, the Commission set out specific grounds (Midwest Television, Inc., 13 FCC 2d at 508), which are pertinent to this general proceeding and need not be repeated here. We seek to explore in this proceeding all aspects of the above cited factors, including the effect of originations with advertising upon the viability of stations in both the top-100 television markets and in the smaller television markets, as against the effect of any prohibition of advertising upon origination by CATV systems. In that respect, we wish to explore fully the issue of financing of original programing on CATV systems and particularly whether subscriber fees could afford an ample financial base for such operations.[8] There is also the possibility, as an alternative or as a supplement, of CATV originations on a per program charge or higher monthly fee basis. There is the further approach of permitting limited commercials, such as only at natural breaks, with no interruption of program material. Persons commenting on this aspect and paragraph 18 below should address themselves to the following situations: (1) Communities with no broadcast service; (2) communities served by a radio station(s), but not a television station; (3) smaller television markets; and (4) major television markets. We also seek information as to existing advertising by a CATV system, the experience of broadcasters with respect to such advertising, the rates charged, and the nature of the advertisers (e.g., are the advertisers new to television or have they previously utilized television and/or radio broadcast facilities?).

18. Assuming that there were a prohibition on commercials, there is then the issue whether such a prohibition should apply to CATV systems in communities which receive no television broadcast service, or only one such service, and which may therefore have a

[8] For example, we request comments upon the following: If $1 per month of the $5 monthly fee from 1 to 2 million subscribers in a city like New York was allocated to program origination, the programing fund would amount to $12–24 million annually. If CATV network operations were supported by a portion of the monthly subscriber fees paid to affiliated CATV systems throughout the country, the resulting financial base for network program origination and interconnection might well exceed the annual amount paid by a national television broadcast network for such purposes. The three television networks together annually spend about $750 million on programing and $45 million for interconnection, or an average of approximately $267 million apiece for both. Assuming widespread CATV operations in major cities as well as smaller communities and a subscriber base of 45 million of the present 58 million television homes in the nation, $1 per month per subscriber would provide annual funds on the order of $540 million. The foregoing is, of course hypothetical. Comments requested on the economic feasibility of CATV systems allocating $1 per month per subscriber to program origination.

shortage of advertising outlets. Comments are invited as to any special considerations pertaining to such areas, including the effect of a possible exception on local radio stations. We are also concerned about the situation of the small advertiser who may not be able to afford the rates of the television broadcast media. While the proposal discussed in paragraph 26 below may be a better way of dealing with this aspect, comments are requested on the desirability of permitting CATV systems to originate advertising by small advertisers on the program origination channel, again provided that there is no interruption of program continuity, i.e., that the advertising precedes or follows the program. Further, there is the issue of the applicability of the approaches delineated in this paragraph and paragraphs 17 and 20 as to originations on any common carrier channel of the CATV system (see paragraph 26), and what regulation of the lessee would be necessary or appropriate. Finally, we stress that while we have reached no conclusions in this important area and will do so only after careful consideration of the pleadings, all interested persons are expressly put on notice that no "grandfathering" is contemplated. In other words, the Commission is proposing to make any rules adopted applicable, upon their effective date, to all CATV service now in existence or commenced during the pendency of this proceeding, as well as to future CATV service.[9]

Equal Time, Sponsorship Identification, Fairness

19. The Commission further believes that a number of important national policies, now applicable to broadcasters, are equally relevant to CATV systems engaging in program origination. At a minimum, these comprise the policies embodied in section 315 of the Communications Act relative to "equal time" for political candidates and the "fairness doctrine," section 317 relative to sponsorship identification, and the national policies relative to diversification of control of the media of mass communications. While the parties are free to suggest other relevant policies or areas for further rule making, we are at this time proposing rules only on these three aspects, as indicated below (pars. 20, 23–25).

20. As conditions to the carriage of broadcast signals by any CATV system which engages in program origination, the Commission proposes the following to be applicable to such originations:

(a) A rule condition analogous to section 315 of the Communications Act and § 73.657 of the Commission's rules concerning broadcasts by candidates for public office;

(b) A rule condition analogous to section 317 of the Communications Act and § 73.654 of the Commission's rules concerning announcement of sponsored programs;[10] and

(c) A rule condition analogous to the obligation, referred to in section 315(a) of the Communications Act and the rules promulgated thereunder, to afford reasonable opportunity for the discussion of conflicting views on issues of public importance.

It is contemplated that the obligations imposed by these conditions would be clarified through rulings upon complaints, as in the case of broadcasters, and that they would be enforced pursuant to the cease and desist procedure contained in section 312 of the Communications Act. Finally, we also request comments upon the possible application to CATV operations of obscenity and lottery provisions similar to those in the broadcast field (see U.S.C., 1304, 1964; § 73.656).

Areas For Local Concern

21. The foregoing represents the Commission's proposed area of concern with respect to this aspect of origination (e.g., provisions along the lines of sections 315, 317). In other respects, the Commission intends, at least initially, to rely largely on local authorities to see to it that CATV meets local communications requirements and interests to the satisfaction of the community.[11] While we are proposing to condition carriage of broadcast signals on a requirement that CATV operate to a significant extent as a local outlet by originating, this obligation might be met in a variety of ways and would be an appropriate area for additional requirements by the locality. Although we think commendable the suggestion that municipalities reserve some channel capacity for their own use without charge, a requirement of this nature is appropriately the function of local or state franchising authorities.

22. Cable television service has tended to develop on a noncompetitive, monopolistic basis in the areas served. The normal protection afforded consumers by providing a choice between alternative suppliers has not, in most instances, been available to the cable television subscriber. This consideration involves such matters as quality of service and repair, the reasonableness of the rates charged, technical standards, and so forth. Such protection has traditionally been provided the public by some form of Government regulation of monopoly services. We do not now urge the application of our jurisdiction to the licensing of CATV systems by the F.C.C. We do, however, believe that local, State and Federal Governmental agencies must face up to providing some means of consumer protection in this area. While we recognize that other problems are involved (such as rates to the public and regulation of any common carrier activities of CATV operators, see par. 26 below), it follows that local entities, either at the State or municipal level depending on State law, should—among other things—be concerned with various licensing considerations pertinent to the public interest judgment to be made by the local authority (e.g., the legal, technical, financial and character qualifications of the franchise applicant; the area to be served; the showing as to plans or arrangements for pole line attachments with a public utility or arrangements with a common carrier or other appropriate feasibility plans; the provision of channels for public or municipal use). Such regulation, while called for in the case of present CATV operations, would be particularly appropriate in light of CATV operations with originations. Indeed, a question is presented whether these are matters as to which we should strongly urge local consideration or should make their consideration and disposition by local authorities, where appropriate under local law, a condition for the carriage of broadcast signals. Finally, in those relatively few instances where there need be no local franchise consideration, we request comments on whether Federal consideration is not then appropriate, and if so, our authority so to proceed (see sections 2(a), 3 (b), (d) and (e), and 301 of the Communications Act of 1934, as amended). We specifically invite comments on the matters discussed in this paragraph from interested State and local authorities, such as the Mayors of CATV communities.

Diversification

23. In the area of diversification of control of the media of mass communications, the Commission is proposing three measures, particularly in view of the origination aspect discussed above. Here again, we stress that no grandfathering is contemplated, although consideration will be given to the question of affording an appropriate period within which compliance with the first two requirements is to be achieved. We are proposing, first, to prohibit cross-ownership of television broadcast stations and CATV systems within the station's Grade B contour. While the Grade B contour appears to be an appropriate standard in view of the Commission's policy of encouraging television broadcast licensees to establish translator facilities in pockets of poor reception within that contour, comments are invited on the desirability of prescribing some other area, such as the 35-mile zone (see Part IV herein). Comments are also requested on the desirability of prohibiting cross-ownership of CATV systems and all broadcast facilities (including radio) assigned to the same community, and what consideration, if any,

[9] Further, as in the case of previous proposals in the CATV field (see 1 FCC 2d 439, 472, par. 50), we would expect that franchising authorities will give due regard to the fact that this matter is thus under Commission consideration.

[10] The nature of this condition will be affected by the resolution of the general issue of a proposed prohibition against origination of advertising material.

[11] The reporting requirements discussed infra, the Commission's complaint procedures, and the statutory cease and desist procedure would, however, provide a check against flagrant abuse of the conditions on carriage of broadcast signals. The Commission would, of course, assume an active enforcement role with respect to the requirements relating to sections 315, 317, and diversification of control.

should be given to ownership of other local media, such as newspapers.[12]

24. Second, the Commission is proposing rule making in the area of multiple ownership of CATV systems. It is contemplated that such rules would limit the total number of systems on a nationwide basis, based on the number of subscribers, the size of the communities, and the regional concentration. In other words, in addition to prescribing the maximum number of CATV systems which any one entity could own, or have an interest in, based upon the number of subscribers and the size of the communities, the proposed rules would limit the number of these that could be located within the same State or adjoining States (taking into account again the number that could be located in major metropolitan areas (e.g., there clearly should be a prohibition of common ownership of CATV systems in cities—i.e., the Standard Metropolitan Statistical Area—such as New York, Los Angeles, and Chicago)). Comments are requested on the desirability of counting commonly owned systems within the same Standard Metropolitan Statistical Area as one system for some or all purposes. In addition to submitting suggestions as to appropriate limitations and the nature of the interest to be counted, interested persons are invited to address themselves to our view that smaller limitations should obviously apply if the CATV operator also has broadcast interests, particularly in television broadcasting.

25. The third measure stems from the Commission's concern, particularly in view of expanding cable channel capacity, that any one entity should have control over what programing is presented to the public on a large number of channels. We are therefore proposing to limit the number of channels on which CATV originated programing may be presented to one, not including any channels devoted to services of an automatic nature such as time and weather, news ticker, stock market ticker, etc.[13] As to the latter automatic services, we raise the issue whether they should not be subject to displacement, if demand develops among channel lessees (see par. 26 below). Moreover, to the extent that scarcity of CATV channels is presently a factor, a limitation on the number of channels devoted to CATV origination would facilitate operations of the nature next discussed.

COMMON CARRIER OPERATIONS

26. We believe that the public interest would be served by encouraging CATV to operate as a common carrier on any remaining channels not utilized for carriage of broadcast signals and CATV origination. This would provide an outlet for others to present programs of their own choosing, free from any control of the CATV operator as to content except as required by the Commission's rules or applicable law. It might also provide a low cost outlet for political candidates, possibly advertisers, programs on a subscription basis, and various modestly funded organizations and entities in the community who may be unable to afford time on or obtain access to broadcast facilities. And it might further provide a means for municipal authorities to fulfill any of their communications needs that are not sufficiently met through CATV's obligation to act as a local outlet. We do not here propose to condition CATV's carriage of broadcast signals on a requirement that it operate as a common carrier on some channel or channels.[14a] We simply point out that, subject to necessary State or local authorization and regulation, the CATV operator may do so, if it chooses. Indeed, this is another area where a local or State requirement might appropriately be imposed.

REPORTING REQUIREMENT

27. There are two further areas of proposed rule making that appear to warrant exploration at this time. One is the matter of requiring CATV operators to file information on a regular basis. In the Second Report the Commission called for a single submission and deferred the question of regular filings pending consideration of the responses to its questionnaire (FCC Form 325). Second Report, 2 FCC 2d 725, 765; Memorandum Opinion and Order denying reconsideration, 6 FCC 2d 308, 322–323. The information then submitted is now, of course, out-of-date. In order to enable the Commission to keep abreast of CATV developments and fulfill its responsibilities in this field, as well as to assist the Congress in its consideration of any legislative proposal, we think it essential that there be periodic filings by CATV operators.

28. The Commission thus is proposing to require by rule that CATV operators file annual reports which will provide current information on such matters as the location of the system, number of subscribers, channel capacity, broadcast signals carried, extent and nature of program origination, any other operations conducted on the system, financial data, ownership, and interests in other CATV systems, broadcast media and other business interests. As a starting point, comments are requested as to what additions, deletions or other changes in FCC Form 325 (Appendix A hereto)[14b] would be appropriate in light of the matters discussed in this Notice. Interested persons are also requested to address themselves to the possibility of an abbreviated form for smaller systems, the appropriate cutoff standard, and the minimum information that should be obtained from such systems. Comments are further requested on whether CATV systems should be required to keep records, available for inspection, to assist the Commission in enforcing the rules proposed in paragraph 20 above, and if so, the appropriate nature of such records.

TECHNICAL STANDARDS

29. The second area of proposed rule making is the question of technical standards for CATV systems. It has been repeatedly suggested that the Commission should undertake to prescribe uniform technical standards to further high quality service to the public, both broadcast signals and CATV originated material, and compatibility among systems for purposes of interconnection. In the First Report, we declined to do so for carriage of broadcast signals, noting that minimum standards might fall short of what could be voluntarily achieved by the CATV operator and that the development of appropriate technical criteria would take some time (38 FCC 683, 731). While the matter of technical standards was included in Docket No. 15971 (1 FCC 2d 453, 476), the Commission is not yet in a position to propose specific criteria.

30. We think the time has come to make a start in this direction. Accordingly, interested persons are invited to make concrete and detailed suggestions as to what technical criteria might appropriately be prescribed. After consideration of the comments, the Commission may establish a committee to assist in the formulation of specific proposed criteria. Persons commenting on this aspect should indicate in their comments whether they would be interested in participating on such a committee. In any event, it is contemplated that a further notice will be issued proposing specific criteria prior to the adoption of any rules prescribing technical standards.

IV. *Proposed rules relative to importation of television signals*—A. *Background considerations.* 31. The Commission has previously considered the question of integrating CATV in an appropriate and fair manner in the national television system in two recent reports—the First Report and Order in Docket Nos. 14895 and 15233, 38 FCC 683 (1965), and the Second Report and Order in Docket Nos. 14895, 15233 and 15971, 2 FCC 2d 725 (1966). We recognized the important contribution which CATV can make, for example, by bringing much needed television service to areas where reception of off-the-air signals is poor or nonexistent because of terrain or distance from a television market. First Report, supra, at pp. 698–99. We sought to promote this contribution by making microwave facilities available to the CATV systems. At the same time, in order to insure the establishment and healthy maintenance of the local television broadcast service—so vital to the public interest for the reasons set forth in paragraphs 44 and 45, First Report, at page 699—we specified that the CATV system using microwave facilities must carry the local signal and must afford same-day nonduplication protection to the programing of the local stations. In this way,

[12] Comments filed in Docket No. 17371 (32 F.R. 6221) will be considered in this proceeding.

[13] The proposed rule again would be in terms of a condition upon carriage of broadcast signals.

[14a] Since the areas of general inquiry set forth in Part V above may be pertinent in this respect, we think that consideration of this question should be deferred to a later stage in this proceeding.

[14b] Appendix A filed as part of the original document.

the local station would continue to have access to the television set of the CATV subscriber, and its audience for network programing would remain largely unfragmented—factors which we believed would contribute substantially to the station's continued healthy local service to all the people within its area. In the Second Report we extended these requirements to all CATV systems, whether or not they use microwave, and our authority to regulate the nonmicrowave system was sustained in United States v. Southwestern Cable Co., 392 U.S. 157 (1968). Finally, in the Second Report, we considered the economic impact and unfair competition issues raised by the entry of CATV, operating with distant signals, on television broadcast service in the major markets, particularly on the establishment and healthy maintenance of the new UHF stations coming on the air as a result of the all-channel television receiver law. Because the nonduplication requirement is wholly ineffective in affording protection to the independent (nonnetwork) programing of such new stations, we devised the so-called major market, distant signal policy, discussed in the next paragraph. We further stressed that we would revise our rules as we gained added insight and experience. The purpose of this part of the Notice is to set forth proposed rule revisions, based upon that experience. We shall discuss, first, revision of the major market policy, and then our proposed policies in the smaller television markets.

B. *Importation of signals in major markets.* 32. The Commission is thus proposing rulemaking to revise the procedure adopted in the Second Report and Order in Docket Nos. 14895, 15233 and 15971, 2 FCC 2d 725 (1966), relative to the carriage of television broadcast signals by CATV systems in major markets. Under § 74.1107, no CATV system may carry a distant signal (i.e., a signal carried beyond the Grade B contour of the station) within the Grade A contour of any station in the 100 largest television markets except upon a showing in an evidentiary hearing that such operation will be consistent with the public interest and, particularly, the establishment and healthy maintenance of television broadcast service in the area. We are here proposing, principally, to substitute a definitive policy for the evidentiary hearing procedure and for this purpose to replace the Grade A contour with a mileage zone.

33. The major market hearing procedure was based on two main concerns: (1) That a CATV growth of substantial order in major markets might have a serious adverse impact on the development of UHF independent stations in these markets, thereby jeopardizing the achievement of an effective and equitable nationwide system of local television outlets—the goal of the all-channel receiver legislation; and (2) that, in view of the disparate position of broadcasters and CATV systems in acquiring programs in the TV program distribution market, these independent stations might face substantial competition of a patently unfair nature against which the same-day nonduplication requirement would be of virtually no assistance. Second Report, 2 FCC 2d at 770–781. Upon the basis of the record compiled in that proceeding, the Commission was unable to resolve the critical dispute as to whether CATV growth in major markets would in fact be substantial. Second Report, 2 FCC 2d at 773. It concluded that these questions should be explored and resolved in evidentiary hearing before CATV operations became entrenched, in view of the impracticability of effective action to roll back an established operation upon which the public has come to rely. Second Report, 2 FCC 2d at 782. The Commission further stated (2 FCC at 786): "As we gain more knowledge in this important area, particularly from the hearings being held, we shall revise or terminate the procedure, as experience dictates."

34. In the 2½ years since the Second Report was issued, the Commission has gained more experience with the matter of potential CATV penetration in major markets and the probable effect on potential UHF development. For example, the then-existing uncertainty as to whether CATV growth in major markets would be minimal or substantial has been removed by the San Diego hearing and other proceedings involving areas which receive three full network services. Midwest Television, Inc., 13 FCC 2d 478. The San Diego proceeding established that potential CATV penetration is likely to be substantial, on the order of half the homes in that market (Midwest, 13 FCC 2d at 490–491). We were also convinced that a penetration of this order could pose a real threat to UHF development and that the unfair competition would be significant (13 FCC 2d at 492–502). San Diego, as the 50th market, is not a fringe sample but rather fairly typical of the top 100 markets as a whole. Finally, the Commission in Midwest pointed out that its longstanding allocations policies do not contemplate that a major television market should become, to a significant extent, merely a satellite of another major market for television purposes, since that would thwart the local service concept of the Communications Act (see sections 307(b), 303(h); see legislative history of section 303(s); Second Report, 2 FCC 2d at 770–771). As stated in the Midwest case (13 FCC at 501), if such a result were deemed in the public interest, the Commission would follow the direct approach of granting increased height and power to stations in the largest communities and authorizing them to operate translator and satellite facilities in other sizable communities.

35. With this experience as background, we have reexamined one of the fundamental policy questions in this area—the element of unfair competition. This facet was discussed at length in the Second Report, 2 FCC 2d at 778–781. We pointed out that because CATV presently stands outside the competitive TV program distribution market (pars. 132–133, Second Report), an anomalous and completely unfair situation is presented. Namely, the UHF station has no protection against duplication by CATV systems bringing in distant signals of its film programing upon which it depends for an adequate economic base to serve as an outlet for local expression for all the people in its service area (par. 134).[15] And, even more important, both the CATV system and the broadcast station are large scale operations competing for audience—yet the one pays for its product and the other, without any payment, brings the same material into the community by simply importing the distant signals (par. 135, Second Report). Similar anomalies in the field of sports telecasts were pointed up (par. 136). We found that while "on its face, this competitive situation would appear to be a most unfair one," no final determination could be made until further exploration in the hearing process, since "it may be that whatever the disparate conditions for operation, there is no need for concern because the CATV will not significantly affect the development or healthy maintenance of UHF broadcasting service." (2 FCC 2d at pp. 780–781.)

36. The experience we have obtained in the hearing process now affords us the answer: CATV operating with distant signals can achieve significant penetration figures in the major markets—most probably in the order of 50 percent (see Midwest, supra).[16] With such penetration, the unfair competition of CATV, described above, will be a significant factor in the development or healthy maintenance of television broadcast service. We stress here that we are not focusing on the issue of whether CATV operations with distant signals will kill or severely cripple UHF operations—but rather believe that it is sufficient to find that the unfair competitive effect is a significant one, in view of the very significant penetration figure, and therefore should be eliminated under the public interest standard of the Communications Act.

37. The latter point also deserves stress. We are not proceeding on some notion for unfair competition from the viewpoint of the Federal Trade Commission Act or the Compco or Sears cases (Compco Corp. v. Day-Brite Lighting, Inc., 376 U.S. 234; Sears Roebuck & Co. v. Stiffel Co., 376 U.S. 225). Nor are we concerned here with unfair competition from the aspect of the copyright owner.

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[15] The same-day nonduplication requirement is not effective to avoid the element of unfair competition. Second Report, 2 FCC 2d at 768–769; Memorandum Opinion and Order denying reconsideration, 6 FCC 2d 309, 313, 315, 317. We declined to "explore any fundamentally different approach while the copyright question is being actively considered by the Congress and the courts and before the outcome is known." (6 FCC 2d at 317.)

[16] Indeed, even the CATV systems in Midwest estimated a 33-percent figure, again establishing CATV as a significant factor. Thus, no one seriously argues that CATV, operating with distant signals, will not achieve significant penetration in the major markets.

Rather, our concern is the public interest in the broadcast field—"the larger and more effective use of radio" (section 303(g) of the Communications Act of 1934, as amended, 47 U.S.C. 303(g)). See also Black Hills Video Corp. v. United States, 399 F. 2d 65, 71 (C.A. 8). That being the case, we must proceed to consider regulations to eliminate this aspect of unfair competition. See United States v. Southwestern Cable Co., 392 U.S. 157.

REQUIREMENT FOR RETRANSMISSION CONSENT OF THE ORIGINATING STATION

38. We believe that the most appropriate and simplest way to eliminate this element of unfair competition is by adoption of a rule permitting the importation of distance signals, but requiring the CATV system which proposes to operate with distant signals in a major market to obtain retransmission consent of the originating stations. See the proposed rules relative to this part set forth below. Such a rule would parallel section 325(a) of the Communications Act, which is applicable to broadcast stations (but not to CATV systems; see First Report, 38 FCC 683, 704) and which has been effective in dealing with the similar problems raised by analogous auxiliary services such as translators, boosters or satellites. We therefore seek to explore in this rulemaking whether the Commission, by rule, should follow the general Congressional guidance in section 325(a) by adopting a retransmission requirement for CATV systems in the above noted situations, and thus eliminate the unfair competitive aspect through direct application of market forces now operative as to analogous services. The alternative of adopting detailed nonduplication requirements effective as to non-network programs appears to us to be less desirable than the above simple device of permitting market forces to eliminate the unfair competition.[17] It may be that a retransmission regulation will not be fully effective or may have drawbacks not now foreseen, requiring further revision or rulemaking. The purpose of this proceeding is to obtain all such relevant information, so that we may be in a position to make an informed judgment as to what regulation would best serve the public interest.[18]

39. While we believe that we must proceed to take appropriate steps to end the unfair competition aspect, both for reasons discussed above and within (par. 41), we are also cognizant of other important developments which we should take into account. We refer specifically to important Congressional developments in the copyright field that bear directly on this issue of unfair competition. Congress is much interested in enactment of a new copyright act, the House having passed H.R. 2512 in the 90th Congress and the Senate being actively engaged in consideration of such a measure. Following the Supreme Court's decision in Fortnightly Corporation v. United Artists Television, Inc., 392 U.S. 390, there are substantial indications that in the 91st Congress there will be enactment of a copyright law providing for a fair and reasonable revision as to CATV. Such a revision may well reflect not just copyright but also communications and antitrust policies (see Fortnightly case, 392 U.S. at p. 401). Indeed, section 111 of H.R. 2512, dealing extensively with CATV copyright matters, was not passed by the House largely because it had not been considered by the Committee charged with communications policy. See 113 Cong. Rec. H3624–3626, 3636–3637, 3644–3647, 3857–3859; cf. Fortnightly Corp. v. United Artists, 392 U.S. at 401, fn. 33. In short, any revision, dealing as it must with concepts such as adequately and inadequately serviced areas, originations, etc., might well be a meld of copyright, communications and antitrust policies. It would thus constitute, to a significant degree, the legislative guideline which the Commission has long sought and would welcome in an important new field such as CATV.[19] The Commission would, of course, cooperate fully in this most important Congressional endeavor.

40. As stated, we must take the above consideration into account. For, our retransmission proposal, while stemming from our responsibilities under the Communications Act (see United States v. Southwestern Cable Co., supra), necessarily also embodies considerations like copyright in its practical applications. Cf. Report on Rebroadcasting, 17 F.R. 4711, 17 F.R. 10309. Since Congress is considering the copyright matter, we should afford the opportunity for Congressional resolution of the unfair competition aspect, particularly since, as discussed, such resolution would constitute the Congressional guidance sought in this important area. We therefore propose to proceed with our rulemaking proceeding, to obtain comments and reply comments, and to be in a position to take definitive action. We shall, however, not take such action until an appropriate period is afforded to determine whether there will be Congressional resolution of this crucial issue of unfair competition, with indeed Congressional guidance in this whole field.

41. In view of the foregoing, it is clear that our policy of holding evidentiary hearings in the top 100 markets should be revised. First, the hearings have served their purpose, by giving us added insight. In the light of that insight and the conclusion we now reach on the unfair competition aspect (par. 36, supra), continuation of the hearings on the economic impact issue would serve little useful purpose. The unfair competition aspect must be eliminated. When it is eliminated, a new type of CATV operation would appear likely to eventuate in these major markets. Indeed, this new type of CATV operation is largely the basis for other parts of this Notice. (See Parts III and V). Whether or what further regulation of this new type may be necessary because of other public interest considerations, we cannot say, since we cannot now foretell precisely the nature of the new operation, nor, if it should eventuate, the Congressional guidance embodied in any new copyright-communications legislation. Clearly, then, it makes little sense to continue these lengthy, complex evidentiary hearings on the economic impact issue—hearings which, we also note, have imposed a considerable burden upon the Commission and the participating parties.

42. In sum, the Supreme Court has sustained the Commission's jurisdiction over CATV systems and its authority to take regulatory action "reasonably ancillary to the effective performance of the Commission's various responsibilities for the regulation of television broadcasting." United States v. Southwestern Cable Co., supra, at 178. We conclude that it would not be consistent with such responsibilities to permit the growth of substantial CATV operations carrying distant signals in major markets until the aspect of unfair competition is eliminated.

43. Accordingly, the Commission proposes to close down the burdensome major market hearings except for those few involving issues other than impact upon the local broadcasting stations, where hearing on such issues might still be appropriate, and to proceed to elimination of the unfair competition aspect, either upon the basis of this rulemaking proceeding or upon Congressional action on copyright-communications legislation. The Commission therefore proposes to adopt a policy, embodied in the attached proposed rules, which will clearly delineate the areas where carriage of distant signals is authorized only upon

[17] With the adoption of such a requirement, there might be some need, upon appropriate occasions, of Commission review (cf. Memorandum Opinion and Order in Docket No. 9808, 17 F.R. 10309, 10310; Commission letter to station KLTV, Tyler, Tex., and station KSLA, Shreveport, La., FCC 64–942, Oct. 14, 1964).

[18] Our proposal, with one exception noted below, is limited to the major markets. In the smaller markets, where there may well be a need for supplementary services, our general policies have sought to promote auxiliary services, including CATV operation. Thus, besides our microwave policies, we have supported the concept in the then pending copyright bill (H.R. 2512, 90th Congress) that CATV systems operating in inadequately served areas should be able to bring in signals on a reasonable compulsory licensing basis. See letter to Chairman Staggers on H.R. 2512, dated Mar. 31, 1967. In line with that policy, we do not propose the retransmission requirement on an across-the-board fashion for the smaller television markets. Rather, we shall rely there upon the new proposals discussed within (paras. 56–58) and upon the nonduplication requirement, which is effective as to the substantial network programing of the stations in these markets, which are uniformly affiliated with networks. Where the system would propose to bring in signals in addition to those permitted under the proposal set forth in para. 57, the retransmission requirement would be applicable. In short, we seek to facilitate CATV operation in the smaller markets in a fair and appropriate manner.

[19] See, e.g., Notice of Inquiry and Notice of Proposed Rulemaking in Docket No. 15971, 1 FCC 2d 453, 464, 465–466; Second Report, 2 FCC 2d at 734, 787.

satisfaction of the requirement for retransmission consent of the originating station. The proposed major market rules would apply across the board and do away with the necessity for case-by-case consideration in evidentiary hearing or upon petition for waiver. Should the rules be adopted and then there be enactment of a new law, the Commission would, of course, reconsider its regulations in light of the new situation and the Congressional guidance.

TOP 100 MARKETS

44. We are proposing to adhere to the 100 largest television markets as the basic dividing line. These are the markets where UHF independent stations are most likely to develop and the unfair competition problem would be most significant. It can be argued that as we go below the 50th market the likelihood of imminent UHF activity becomes smaller. But fourth stations have already developed in many of the top 50 (including San Diego, the 50th market) and this could have a snowballing effect on UHF development in the markets below 50.[20] It has been the Commission's experience that broadcasters generally seek to enter first the markets offering the largest audience potential and then turn to smaller markets as the more attractive locations become saturated. By the same token, as noted in the Midwest case, if UHF's chances for success in the smaller markets are more marginal, the "likelihood of serious adverse impact from any substantial CATV penetration is correspondingly greater" (Midwest Television, Inc., 13 FCC 2d at 493). Moreover, the increasing availability of programming for independent stations in the top 50 markets may well stimulate new independents in the 50–100 markets. In addition, it is hoped that the promise of satellite technology as an economic means of providing service from one transmission point to many reception points will soon be realized domestically and that lower interconnection charges will encourage the development of a fourth network, regional networks and additional nonnetwork program sources for stations. In short, for so long as the achievement of an adequate commercial television system—"available, so far as possible, to all people of the United States" (section 1 of the Communications Act)—is dependent significantly upon the development of UHF, it would appear that as a minimum we should strive to preserve a fair opportunity for achieving additional local services on the UHF channels allocated to the top 100 markets. See Second Report, 2 FCC 2d at 770–771.

45. There are further important considerations here. Thus, while as stated there is an argument concerning the likelihood of UHF independent stations as we go below the 50th market, we think it important to eliminate the unfair competition factor vis-a-vis all stations in as many markets as possible. Though competing considerations should be weighed in underserved areas and thus different policies developed there (see pars. 57 and 58), the top 100 markets generally do not fall in this category. Second Report, 2 FCC 2d at 783. Moreover, we are here concerned with what should be in our proposed Notice, keeping in mind that we wish to process during the pendency of the rulemaking proceeding (see para. 51, infra). This, in turn, clearly calls for adherence to the 100 largest television markets, since while we can always open a market to unrestricted CATV operation with distant signals (i.e., operation without retransmission authorization), it is difficult, and indeed could be impracticable, to halt or roll back such an operation, once entrenched. See Second Report, 2 FCC 2d at 782; Memorandum and Opinion on Reconsideration, 6 FCC 2d 309, 317.

46. Finally, we are also seeking to encourage a new kind of CATV operation in the largest markets—one which may well bring a new dimension of diversity to these markets. See Part III of this Notice. That being so, there is also the fundamental policy question whether the public interest in the relatively large markets (i.e., the 100 largest) would be better served by CATV operating in the new fashion, as is proposed in Part III of this Notice, and as we are seeking to promote in San Diego, the 50th market, or by CATV operations with distant signals, without the requirement of retransmission consent. We recognize that this is a complex issue, and request comments thereon. It is however, an additional policy reason for adhering to the 100 largest markets during this period while the matter is being resolved.

47. We have also determined that it would be more appropriate, in the interest of a clear and definitive rule, to list in the rule the relevant major television markets, on the basis of the 1967 rating of the American Research Bureau (ARB) based on net weekly circulation.[21] The ARB rating may vary somewhat from year to year, and this could be most disruptive in the few markets involved. We therefore propose the definitive and fixed list. We have also set forth in our proposal the name of each community in the market from which a 35-mile zone is to extend, where we believe it to be appropriate in view of the nature of the market.

FIXED MILEAGE STANDARD

48. We are also proposing to adopt a mileage standard, in place of the Grade A contour, for measuring the area in which carriage of distant signals is permitted upon the retransmission consent condition. The predicted Grade A contour varies from station to station and may go out as far as 60 miles from the station's transmitter. A fixed mileage standard, which would be adhered to in every case, would have the advantage of administrative ease and provide certainty to the affected industries. A zone measured by air miles from the main post office in the designated market community can be readily calculated without resort to contour maps in the Commission's files or the necessity for evidentiary hearing to resolve disputes. The zone proposed in the attached rules is the area extending 35 miles from the main post office in each of the market cities designated in the major market listing. This would protect the essential area for stations' development in the market against unfair competition, largely avoid the cumulative impact aspect, and preserve the basic integrity of the major markets from an allocations standpoint. In connection with this latter aspect, we stress that from a practical or allocations standpoint, it makes no sense to preserve the main city itself and let CATV operate with distant signals (without the retransmission consent being required) in adjacent or relatively nearby smaller communities. Rather, proper allocations procedure calls for this adoption of an appropriate zone around the main city or cities, with all TV homes within the appropriate zone treated alike. Finally, we note that the 35-mile zone accords generally with our waiver practices under the present § 74.1107(a).

"FOOTNOTE 69" SITUATIONS

49. We are proposing further to codify in the rules the so-called "footnote 69" situation, i.e., where a central metropolitan area of one major market falls within the predicted contours of stations in another major market, so as to avoid the San Diego type of hearing and preserve the local character of such markets against the element of unfair competition. For this purpose it appears that the same 35-mile zone may be appropriate. The attached rules would prohibit a CATV system operating in a community located wholly within the 35-mile zone of a television station in a major market from carrying the signal of a television station in another major market unless the community of the system is also located wholly within the 35-mile zone of the station in the other market or unless the retransmission consent requirement is fulfilled. This would eliminate the unfair competition aspect as to the local market stations in the essential area where their off-the-air signals are of higher grade than those from the other market, while not affecting CATV carriage of signals from both markets in the area where such signals are of approximately equal grade or in the area which lies outside the 35-mile zones. And, here again, allocations policies would be furthered. See discussion, par. 48, supra. We recognize that arguments can be advanced for other mileage proposals—for example, for a 40-mile zone, with a 30-mile zone in the "footnote 69" situation, or for an across-the-board 30-mile zone. It is our tentative judgment

[20] We note that considerable interest has been expressed in the UHF facilities allocated to the top 100 markets. See Appendix B which is filed as part of the original document.

[21] While the 1968 ratings have now been issued, we think that it would cause less disruption to continue to use the ratings which have been in effect during most of the past year.

that the 35-mile zone is most appropriate, and we have therefore used that standard in the proposed rules (and also as our interim guideline—see par. 51). We specifically invite comment on this aspect.

50. We also recognize that in drawing lines of this nature there will inevitably be some borderline cases which might more appropriately fall on the other side of the line. But the thrust of the proposed rules is to cover the crux of this matter, rather than to achieve a multiplicity of refinements tailored to the precise circumstances of all conceivable situations. The latter course would simply perpetuate the present burdensome hearing and waiver procedure with its unpredictable consequences. We think that the goals of certainty and administrative ease to be obtained from strict adherence to a definitive policy outweigh any advantages that might flow from flexible administration with its attendant drawbacks. Therefore, the proposed rules do not contemplate the grant of waivers.[22]

INTERIM PROCEDURES

51. We turn now to the procedure to be followed by the Commission while this rulemaking is pending. Effective upon the issuance of this Notice, the Commission will halt the hearing process in all top 100 market proceedings (including those with a "footnote 69" issue) wherever it stands, even at the Review Board or Commission level.[23] There is no point in requiring the parties and the Commission to expend the resources and effort necessary to continue such hearings if the definitive policy is to supplant that process. We will also stop processing petitions for waiver of the hearing requirement. However, parties to pending hearings, and those who have pending petitions for waiver, or who desire to file new petitions for waiver of the existing § 74.1107(a), may request authority to commence distant signal operations which would be permissible because they fall outside the zones in the attached proposed rules. The Commission will grant such requests only if they are entirely consistent with the proposed rules. We believe it appropriate to proceed this way, since, as stated, waiver policies under the existing rules have largely paralleled the proposed 35-mile zone. Action on all other requests for authority or petitions for waiver to carry signals coming within the hearing requirement of the existing rules will be held in abeyance pending the outcome of this proceeding. We would, however, consider the authorization, during this interim period, of some operations within the proposed 35-mile zone by systems which would operate in accordance with the retransmission consent requirement of the proposed rules. We believe that authorization to effect this waiver in some instances would give us valuable information concerning the actual operation of systems under the proposed rules and thus would assist us in resolution of the rulemaking.

52. CATV systems now carrying Grade B signals from a major market within the Grade B contour of a station in another major market, or those proposing to do so, are not proscribed by the existing rules except where the filing of a timely § 74.1109 petition continues the operative effect of § 74.1105(c). Commission action on pending and future § 74.1109 petitions of this nature will be held in abeyance pending the outcome of this proceeding. However, a CATV system may request relief from the proscription of § 74.1105(c) in order to carry such signals in areas which would be permissible under the attached proposed rules. Such relief will be granted only to the extent that the request is entirely consistent with the proposed rules and with the public interest, as evidenced by the considerations in the particular case.[24]

53. We are proposing to "grandfather" the present service of CATV systems which would otherwise be prohibited or restricted by the proposed rules, in order to avoid substantial disruption to the CATV subscribers.[25] The proposed grandfathering date is the date of publication of this notice in the FEDERAL REGISTER (December 20, 1968). Thus, any rules adopted would be applicable upon their effective date to all CATV service commenced after December 20, 1968, including service not barred by § 74.1105(c). However, in the event that the rules finally adopted differ from the proposed rules, service authorized by the Commission to commence during the pendency of this proceeding will be grandfathered; also grandfathered is any service previously authorized by the Commission, whatever the commencement date of such service.

54. We believe that the proposed rules and the interim processing procedures outlined above are necessary to the effective performance of the Commission's responsibilities for the regulation of television broadcasting and the proper dispatch of the Commission's business (section 4(j) of the Act). At the same time, we are not unmindful of the promising potential of CATV and the cable technology as a means for increasing the number of local outlets for community self-expression, for augmenting the public's choice of programs and types of program service, and for providing a variety of other communications services. Parts III and V of this proceeding are directed toward the broader and more important questions of how best to obtain, consistent with the public interest standard of the Communications Act, the full benefits of CATV for the public and what Commission actions or legislative recommendations would be appropriate to encourage such development. Those parts may well determine basic issues as to the long-range structure of the cable industry and its relationship to the broadcasting and communications common carrier industries. The proposals in this part are required by present circumstances and are interim in nature, in the sense that if relevant legislation is forthcoming, or if there are new significant industry changes or some revolutionary technological development, the Commission will of course reexamine this matter upon the basis of the new circumstances.

C. *Distant signals in smaller television markets.* 55. We are not proposing any blanket prohibition against carriage of distant signals or blanket retransmission consent requirement in the television markets below the top 100, for the reasons already developed (see note 18, above), except as indicated in par. 57 below. However, we will continue to examine such markets on an ad hoc basis, upon petition filed pursuant to § 74.1109.[26] With the end of the hearing load in the major market proceedings, the Commission hopes to be able to devote more attention to the smaller markets and to take such action as may be appropriate (including any evidentiary hearings required to resolve disputed issues of fact) in those few instances where there is a substantial public interest showing, e.g., that a proposed new station would be independent or largely independent in operation or that the cumulative effect of existing and proposed CATV operations in the market would jeopardize the likelihood of obtaining or retaining a network affiliation or of maintaining audiences large enough to attract needed advertiser support. Most important, we are proposing to adopt rules regulating the carriage of distant signals in the smaller markets which may substantially alleviate potential problems in such markets and thus cut down greatly upon the need for any evidentiary hearings in this respect.

56. While recognizing the need for underserved areas to obtain additional services through CATV systems, the Commission is concerned lest CATV should undercut our basic allocations policies and structure by importing signals from unnecessarily distant centers or in such quantity as to unduly fractionalize the relatively small potential audience of stations in these smaller markets. Thus, a substantial question is presented as to whether it is consistent with fundamental allocations policies to permit CATV systems to engage in the practice of "leap-frogging," e.g., to bring the signals of Los Angeles stations into Texas or the signals of New York City stations into Ohio instead of carrying the signals of stations of the same type that are located closer to the system and

[22] We have in mind the past situation where waivers were sought in the ordinary course pursuant to § 74.1109. The provisions of § 1.3 of the Commission's general rules of practice and procedure are applicable, of course, to every rule of the Commission.

[23] We will, however, consider the appropriateness of resolving issues in hearings which do not involve the question of impact upon broadcasting stations.

[24] The procedures to be followed in filing requests pursuant to pars. 51–52 of this notice, and responsive pleadings thereto, are the same as those set forth in § 74.1109 (b), (c) and (d) of the existing rules.

[25] Such "grandfathering" does not, of course, include present service which is in violation of our existing rules.

[26] The same policy will apply also to areas outside the specified zones in the top 100 markets.

thus are much more apt to have regional or in-State programing more attuned to the needs and interests of the community. Further, such "leap-frogging" with its concentration on the signals of the large cities such as New York and Los Angeles, raises questions of diversification of media of mass communications. To deal with these questions, we put forth for comment the proposal that communities being inadequately served should receive additional service from the nearest full network, independent and educational stations in their region, or within the same State. Moreover, a serious question is raised when such additional services are supplemented by further network or independent signals from more distant centers where the CATV system is located within the 35-mile zone of local stations providing the only television service available to persons within their service areas who are not served by CATV systems. There is the danger that a plethora of competing signals, brought in wholly without regard to the "fair competition" concept integral to the retransmission consent requirement, may cause a loss or deterioration of service to the substantial portion of the public dependent upon television broadcast stations—a loss which would outweigh any incremental value of the extra signals to the CATV subscribers for the reasons set forth in the First and Second Reports.[27] At least, in view of the burgeoning proposals to bring, for example, Los Angeles signals into the Mountain or Southwestern States, this is a matter warranting thorough exploration.

WITHIN SPECIFIED ZONES

57. The attached proposed rules would permit a CATV system operating within the 35-mile zone of a station in a smaller market to carry only such distant signals as may be necessary to furnish its subscribers (counting local signals) the signal of one full network station of each of the national television networks and one independent station,[28] provided that the supplementary distant signals were obtained from the closest source in the region or in the State of the system. The system could also carry the signal of any independent station that subsequently commences operation at a location closer to the system, and the signals of any in-State or nearby educational stations in the absence of objection by local or State educational interests. However, carriage of other distant signals would be prohibited, unless the CATV system has the retransmission consent of the originating stations with respect to such additional signals. See proposed § 74.1107(d) as set forth below. Based upon our experience, systems operating with the above number of signals in the smaller markets have been successful, and indeed operation with such numbers is very frequently encountered. In those few instances where a more varied operation may be appropriate, we stress again the origination aspect (see Part III herein). The proposed limitation in this paragraph thus also complements the commission's determination that originations serve the public interest.

OUTSIDE SPECIFIED ZONES

58. CATV systems located outside the 35-mile zone of any station in a major or smaller market would be permitted to carry such distant signals as they chose so long as they refrained from "leap-frogging," i.e., did not carry a more distant station before carrying a closer station of the same type (e.g., full network stations of the same network, independent or educational stations). Since some flexibility may be appropriate in the administration of the latter provision, the proposed rules contemplate the grant of waivers for good cause shown, e.g., that the more distant station is located in the same State or that the system's subscribers have a greater community of interest with the region of the more distant station. See proposed § 74.1107 (e)(2). Here again the systems could, and under the proposal in Part III herein, would originate. Indeed, we would expect such originations to be facilitated to some extent by the fact that nearby systems within the 35-mile zone might well be engaged in originations.

GRANDFATHERING AND INTERIM PROCEDURES ON MICROWAVE APPLICATIONS

59. As in the case of the major market provisions, the Commission is proposing to grandfather existing CATV service in the smaller markets and outside the specified zones, in view of the general impracticability of rolling back established service. The proposed grandfathering date is the same, i.e., the date of publication of this notice in the FEDERAL REGISTER (December 20, 1968). Since any rules adopted will be applicable upon their effective date to all CATV service commenced after December 20, 1968, CATV systems commencing operations inconsistent with the proposed rules during the pendency of this proceeding will do so at their own risk. Many of the distant signals covered by the proposed rules would involve microwave authorizations. In view of the substantial public interest questions posed by microwave applications to relay signals which would be inconsistent with the proposed rules and in order to avoid unnecessary disruption to the public, Commission action on inconsistent applications for new microwave service to a CATV system will be held in abeyance during the pendency of this proceeding. Consistent microwave applications will be processed and considered by the Commission in normal course, and any service provided pursuant to such a grant will be grandfathered. Where the microwave application is for service to a system located outside of the 35-mile zone of any station, the Commission will consider applications containing requests for special relief along the lines contemplated by § 74.1107(e)(2) of the proposed rules as set forth below, in order to maintain its flexibility during the interim period to take action consistent with the public interest in the particular circumstances.

V. *General areas of inquiry.* 60. The possibility of a multi-purpose local CATV communications system, and of national interconnection of such systems (see Part II above), raises a number of questions pertinent to the Commission's responsibilities and national communications policy, which not only must be considered in the context of the immediate issues before us relating to CATV systems, but affect other areas as well.[29] It is difficult to be specific in an area of rapidly changing technology and before concrete proposals have been advanced, the identity of those willing and able to provide various services has been ascertained, the services have come into being, and public demands and preferences are known. Nevertheless, at least the following general questions occur to us initially:

(1) What is the appropriate relationship between CATV, communications common carriers, and other entities (e.g., the broadcasters, computer industry, etc.) which now provide, or may in the future seek to provide, communications services in the locality?

(2) What is likely to be the nature of the services that could be offered to the home or business under present and anticipated technology, and how would home and business requirements for communications facilities differ in light of services that might be economically practicable only for business use?

(3) Would the public interest be best served for the immediate future by:

(a) Permitting or encouraging the entry of all would-be newcomers, services, technologies and facilities in an atmosphere of free competition, letting the market place determine the survival of the fittest, subject to such minimum regulation as may presently be required in the execution of the Commission's statutory responsibilities and to such future regulation as may become necessary or desirable in the public interest or as a result of legislation; or

(b) Permitting test of different systems or services by different entities in various cities to afford some basis in experience for decisions as to the best ultimate structure before any particular system or service becomes established on a widespread basis; or

[27] In this connection, we also note that while the nonduplication requirement is effective as to network programing, roughly 45 percent of a network affiliate's time is devoted to nonnetwork material; and it is this segment which is particularly vulnerable to continued fractionalization by a plethora of distant signals.

[28] The question of whether a station, which is not affiliated with a national network, qualifies as an "independent" station within the meaning of this section would be treated on petition pursuant to § 74.1109.

[29] Some of the potential services that have been suggested for cable systems (see Part II above) obviously could have far-reaching social and economic implications and broad impact on industries and institutions not subject to the Commission's jurisdiction. We intend to explore these issues in the context of the discharge of Commission's responsibilities.

(c) Undertaking to devise a master plan now, before new facilities and services are inaugurated, to guide their development?

(4) Is it necessary or desirable that there should ultimately be a single cable (or bundle of cables) providing multiple means of communication to and from the home and/or business and, if so, should the complete system be owned by one entity or should there be diversity of ownership or control of some aspects of such a multi-purpose communications system (e.g., joint ownership or indefeasible right of use)? What considerations should govern access to such system by communications common carriers and others offering communications services to the public? What should be the nature of the service offering by the entity or entities which would provide the cable (or bundle of cables) to the home?

(5) Is it necessary or desirable that there be multiple facilities providing means of communication to and from the home or business—e.g., some combination of radio, cable and wire—and, if so, what kinds of services should in general be provided by what kinds of facilities?

(a) Is it technically and economically feasible for CATV to provide some two-way services, particularly two-way video, and switched services to and from the home and/or business and, if so, what would be the role of such services vis-a-vis other services such as videotelephone service?

(b) Assuming that some services could be provided by the facilities of more than one entity (by communications common carriers such as the telephone and telegraph companies, by CATV or some other enterprise), should duplication of facilities and competition in the provision of services be permitted, at least initially, or should there be some allocation of services among different entities?

(c) Assuming multiple facilities owned by different entities, would it be necessary or desirable to have a common junction at the premises of the consumer to facilitate interconnection of facilities and the provision of some services one way by one facility and the other way by another facility?

(d) Assuming multiple facilities owned or controlled by different entities, would it be necessary or desirable that the entire complex (or an essential portion thereof) be engineered according to uniform standards or by one entity to further technical compatibility, efficiency and economy?

(6) What facilities would be necessary or desirable for transmission through the streets, as opposed to from the street to consumer's premises, and what are the comparative advantages or disadvantages of radio, cable, or some other mode?

(a) Should there be a variety of intracity distribution systems or only one and, if the latter, of what nature?

(b) Assuming a single intracity distribution system and a single cable (or bundle of cables) providing access to the premises of the consumer, should the complete system be owned by one entity or should there be diversity of ownership and control of some aspects? In either event, should there be limitations on common ownership or control of facilities in different cities?

(c) Apart from the question of ownership and control of facilities, should all entities desiring to provide a communications service to the public have nondiscriminatory and equitable access to the local distribution facilities for the purpose of so doing and, if so, on what basis?

(7) How should the local communication system or systems tie into intercity terrestrial and satellite facilities?

(8) What technical standards would be necessary or desirable to achieve national and local compatibility and good quality service to the public?

(9) How could the same communications services available to homes in the city be provided to homes in rural or other areas not now economically reached by cable?

(a) To what extent could this problem be alleviated by the use of radio links such as those involved in the experimentation of Teleprompter Corp. and Chromalloy American Corp. (see footnote 6 above).

(b) Would it be necessary or desirable for the Federal Government to subsidize construction of communications facilities in rural areas in a program akin to rural electrification?

(10) What should be the division of regulatory functions between Federal and State or local authorities with respect to the local communications system or systems, e.g., construction of facilities, terms and conditions of access by those offering communications services, services and charges to the public, licensing, etc.?

(a) Which aspects of the local system or systems would require uniformity and centralized regulation or would be important to the effectuation of national communications policies, which aspects would be primarily of local concern and appropriately subject to State or local regulation, and which aspects might better be left unregulated?

(b) What amendments to the Communications Act of 1934 might be necessary or desirable to effectuate the public interest and national communications policies in this area?

61. The foregoing merely touches on some of the questions which occur to us initially and is by no means an all-inclusive listing. Among other things, the Commission is also concerned about the effect of potential new specialized communications developments on present communications technologies and services and, particularly, the social, political, and economic considerations raised by such developments. We recognize that these questions range over a broad field. Moreover, it is apparent that the field is one of many variables, difficult to assess at this time. These questions have implications which may affect the resolution of our specific rule making proposals and should be kept in mind by persons commenting on Parts III and IV herein. As stated at the outset, we believe that a continuing inquiry is needed, with the ability to take action at different phases as the problem becomes clarified and the need for action is shown. Accordingly, to inaugurate the discussion, interested persons are invited to comment on the questions indicated above and to suggest other problems and possible courses of action in this complex field.

VI. *Miscellaneous.* 62. In view of the matters encompassed in this proceeding, the Commission is concurrently issuing an order terminating the proceeding in Docket No. 15971. Matters at issue in Docket No. 15971, which have not been resolved or which have not been specifically mentioned in this notice, can be raised in this proceeding. See, e.g., notice of inquiry and notice of proposed rule making in Docket No. 15971 (30 F.R. 6078), par. 63, concerning the effect of CATV distribution of aural signals on local standard broadcast or FM radio stations.

63. Since the proposed rules discussed in Part IV above, and set forth in Appendix C hereto, are intended to embody a clear-cut and definitive policy, particularly in the major markets, interested persons are requested to point out in their comments any respects in which the proposed provisions appear ambiguous or open to factual dispute.

64. It should be noted that the Commission is proposing in Appendix C to make an editorial change in § 74.1103(d) to make explicit a requirement embodied in the present rules. In the Second Report the Commission stated that the carriage provisions contained an implicit requirement that CATV systems "refrain from deleting or altering any portion (including advertising) of signals carried pursuant to the rules" except as required by the program exclusivity provisions (2 FCC 2d at 753, 756). The Commission further stated that it would so rule upon complaint (2 FCC 2d at 756). While no explicit statement in the rules was then deemed necessary, we now think that an express provision may be helpful in avoiding any possible misunderstanding as to the existing obligation of the CATV system.

Authority for the proposed rulemaking and inquiry instituted herein is contained in sections 2, 3, 4(i), (j), and (k), 301, 303, 307, 308, 309, and 403 of the Communications Act; cf. also sections 315, 317, and 325(a) of the Communications Act.

65. In view of the importance and complexity of the issues in this proceeding, the Commission intends to afford oral argument at an early date to assist in crystalizing the issues prior to the submission of written comments, and may schedule further oral argument after consideration of such comments. Oral argument on all matters discussed in Parts III and IV herein will be scheduled to be held during the latter part of January 1969; oral presentations may be made by interested persons (such as industry spokesmen) or their attorneys.

All interested persons are invited to file written comments on the rulemaking proposals set forth in Parts III and IV herein and as set forth below on or before March 3, 1969, and reply comments on or before April 3, 1969. In view of the importance of a prompt resolution of various aspects of the rulemaking proposals in Part III, the Commission expects to adhere to the filing times for comments on Part III, absent a compelling showing of unusual circumstances. Comments on the inquiry in Part V herein may be filed on or before June 16, 1969, and reply comments on or before August 15, 1969. In reaching its decision in this matter, the Commission may also take into account any other relevant information before it, in addition to the comments invited by this notice. The Commission, after consideration of the comments, will also determine whether further oral argument should be scheduled.

66. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and 15 copies of all comments, replies, pleadings, briefs, or other documents filed in this proceeding shall be furnished to the Commission.

Adopted: December 12, 1968.

Released: December 13, 1968.

FEDERAL COMMUNICATIONS COMMISSION,[30]

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

Part 74, Subpart K, is amended as follows:

1. In § 74.1101, paragraph (i) is amended and paragraphs (j), (k), (l), (m), (n), and (o) are added as follows:

§ 74.1101 Definitions.

* * * * *

(i) *Distant signal.* The term "distant signal" means the signal of a television broadcast station which is extended or received beyond the predicted Grade B contour of that station.

(j) *Major television market.* The term "major television market" means a television market listed in § 74.1107(a) of this chapter.

(k) *Designated community in a major television market.* The term "designated community in a major television market" means a community named in the list of major television markets in § 74.1107(a) of this chapter.

(l) *Smaller television market.* The term "smaller television market" means a television market which is not listed in § 74.1107(a) of this chapter.

(m) *Specified zone of television broadcast stations.* The term "specified zone of a television broadcast station" means the area extending 35 air miles from the main post office in the community or communities to which that station is assigned by the Table of Assignments contained in § 73.606 of this chapter.

(n) *Full network station.* The term "full network station" means a television broadcast station which is owned by a national television network or which has a primary affiliation contract with a single such network and no secondary affiliation with any other network.

(o) *Partial network station.* The term "partial network station" means a television broadcast station which is affiliated with more than one national television network or which has a secondary affiliation contract with a single such network.

2. In § 74.1103, new subparagraphs (b)(5) and (d)(4) are added to read as follows:

§ 74.1103 Requirement relating to distribution of television signals by community antenna television systems.

* * * * *

(b) *Exceptions.* * * *

(5) No system shall carry the signal of any station if the carriage of such signal would be inconsistent with § 74.1107(c) of this chapter.

* * * * *

(d) *Manner of carriage.* * * *

(4) The signal shall be carried in full, without deletion or alteration of any portion except as required by paragraph (f) of this section.

* * * * *

3. Section 74.1107 is revised to read as follows:

§ 74.1107 Requirements applicable to carriage of television broadcast signals in specified zones and in areas outside of specified zones.

(a) The major television markets and their designated communities are:

(1) New York, N.Y.
(2) Los Angeles, Calif.
(3) Chicago, Ill.
(4) Philadelphia, Pa.
(5) Boston, Mass.
(6) Detroit, Mich.
(7) San Francisco, Calif.
(8) Cleveland, Ohio.
(9) Washington, D.C.
(10) Pittsburgh, Pa.
(11) Baltimore, Md.
(12) St. Louis, Mo.
(13) Hartford—New Haven, Conn.
(14) Providence, R.I.—New Bedford, Mass.
(15) Dallas—Fort Worth, Tex.
(16) Cincinnati, Ohio.
(17) Minneapolis—St. Paul, Minn.
(18) Indianapolis, Ind.
(19) Atlanta, Ga.
(20) Miami, Fla.
(21) Buffalo, N.Y.
(22) Seattle—Tacoma, Wash.
(23) Kansas City, Mo.
(24) Milwaukee, Wis.
(25) Sacramento—Stockton, Calif.
(26) Houston, Galveston, Tex.
(27) Dayton, Ohio.
(28) Columbus, Ohio.
(29) Johnstown—Altoona, Pa.
(30) Harrisburg — Lancaster — Lebanon—York, Pa.
(31) Tampa—St. Petersburg, Fla.
(32) Memphis, Tenn.
(33) Charlotte, N.C.
(34) Syracuse, N.Y.
(35) Toledo, Ohio.
(36) Portland, Oreg.
(37) Wheeling, W. Va.—Steubenville, Ohio.
(38) Grand Rapids—Kalamazoo, Mich.
(39) Denver, Colo.
(40) Birmingham, Ala.
(41) Nashville, Tenn.
(42) Albany — Schenectady — Troy, N.Y.
(43) New Orleans, La.
(44) Greenville—Spartanburg, S.C.—Asheville, N.C.
(45) Greensboro — Winston-Salem — High Point, N.C.
(46) Flint—Saginaw—Bay City, Mich.
(47) Louisville, Ky.
(48) Charleston—Huntington, W. Va.
(49) Lansing, Mich.
(50) San Diego, Calif.
(51) Oklahoma City, Okla.
(52) Raleigh—Durham, N.C.
(53) Norfolk — Portsmouth—Newport News—Hampton, Va.
(54) Manchester, N.H.
(55) Omaha, Nebr.
(56) Wichita—Hutchinson, Kans.
(57) San Antonio, Tex.
(58) Tulsa, Okla.
(59) Salt Lake City—Ogden—Provo, Utah.
(60) Salinas—Monterey, Calif.
(61) Phoenix, Ariz.
(62) Davenport, Iowa—Rock Island—Moline, Ill.
(63) Portland—Poland Spring, Maine.
(64) Rochester, N.Y.
(65) Orlando—Daytona Beach, Fla.
(66) Richmond—Petersburg, Va.
(67) Roanoke—Lynchburg, Va.
(68) Shreveport, La.—Texarkana, Tex.
(69) Wilkes-Barre—Scranton, Pa.
(70) Green Bay, Wis.
(71) Little Rock, Ark.
(72) Champaign — Decatur—Springfield, Ill.
(73) Mobile, Ala.—Pensacola, Fla.
(74) Cedar Rapids—Waterloo, Iowa.
(75) Jacksonville, Fla.
(76) Spokane, Wash.
(77) Knoxville, Tenn.
(78) Des Moines—Fort Dodge, Iowa.
(79) Jackson, Miss.
(80) Cape Girardeau, Mo.—Paducah, Ky.—Harrisburg, Ill.
(81) Columbus, Ga.
(82) Youngstown, Ohio.
(83) Columbia, S.C.
(84) Baton Rouge, La.
(85) Springfield—Holyoke, Mass.
(86) Greenville — Washington — New Bern, N.C.
(87) Binghamton, N.Y.
(88) Madison, Wis.
(89) Lincoln — Hastings — Kearney, Nebr.
(90) Fresno, Calif.
(91) Chattanooga, Tenn.
(92) Evansville, Ind.
(93) Sioux Falls, S. Dak.
(94) South Bend—Elkhart, Ind.
(95) West Palm Beach, Fla.
(96) Fort Wayne, Ind.
(97) Rockford, Ill.
(98) Peoria, Ill.
(99) Augusta, Ga.
(100) Terre Haute, Ind.

[30] Commissioner Bartley's dissenting statement and Commissioners Cox's and Lee's statements in which they concur in part and dissent in part filed as part of the original document; Commissioner Johnson concurring in the result.

(b) *Carriage of distant signals in major television markets.* No CATV system operating in a community located in whole or in part, within the specified zone of a television broadcast station assigned to a designated community in a major television market shall extend the signal of a commercial television broadcast station beyond the predicted Grade B contour of the station, unless such station has expressly authorized the system of retransmit the program or programs on the signal to be extended: *Provided, however,* That the system may carry the signal of any noncommercial educational station, in the absence of timely objection filed pursuant to § 74.1109 of this chapter by any local educational station or by any local or state educational television agencies: *Provided, further,* That priority of carriage is afforded to the signals of educational stations located in the same State or closest to the system.

(c) *Carriage of signals from a major television market in another major market.* No CATV system operating in a community located wholly within the specified zone of a television broadcast station assigned to a designated community in a major television market shall carry the signal of a commercial television broadcast station assigned to a designated community in another major television market, unless the community of the CATV system is also located wholly within the specified zone of the station in the other major market or unless the system has the express authorization of the originating station to retransmit the program or programs on the signal to be extended: *Provided, however,* That the system may carry the signal of any noncommercial educational station assigned to such other major market, in the absence of timely objection filed pursuant to § 74.1109 of this chapter by any local market educational station or by any local or state educational television agencies.

(d) *Carriage of distant signals in smaller television markets.* (1) No CATV system operating in a community located in whole or in part, within the specified zone of a television broadcast station assigned to a smaller television market shall extend the signal of a television broadcast station beyond the predicted Grade B contour of such station, except as authorized in subparagraphs (2), (3), and (4) of this paragraph: *Provided, however,* That such a system may carry additional distant signals if the system has the express authorization of the originating station to retransmit the program or programs on any additional signals to be extended.

(2) The system may carry such distant signals as may be necessary to furnish to its subscribers the signals of a full network station of each of the national television networks counting any full network stations carried on the system pursuant to § 74.1103(a) of this chapter: *Provided,* That the distant signals are obtained from the closest full network station in the region or in the State of the system and do not include more than one full network station of the same network.

(3) The system may carry the distant signal of one independent station obtained from the nearest community with an operating independent station or stations. In the event that such community has more than one operating independent station, the system shall select the signal of whichever independent station it chooses to carry. The system may also carry the distant signal of any independent station that may subsequently commence operation at a location closer to the community of the system.

(4) The system may carry the signal of any noncommercial educational television station, in the absence of timely objection filed pursuant to § 74.1109 of this chapter by any local educational station or by any local or State educational television agencies: *Provided,* That priority of carriage is afforded to the signals of educational stations located in the same State or closest to the system.

(e) *Carriage of distant signals in areas outside any specified zone.* (1) No CATV system operating outside the specified zones of all television broadcast stations shall extend the signal of any television broadcast station beyond the station's predicted Grade B contour unless the system is carrying the signals of all television broadcast stations in the same class that are operating in communities located closer to the system. The classes of television broadcast stations to which this subparagraph is applicable are the following:

(i) Stations that are full network stations of the same network.

(ii) Stations that are partial network stations of the same network or networks.

(iii) Independent stations.

(iv) Noncommercial educational stations.

(2) The Commission may waive the provisions of subparagraph (1) of this paragraph for good cause shown in a petition filed pursuant to § 74.1109 of this chapter, such as a showing that (i) the community of the more distant station is located in the same State or (ii) the system's subscribers have a greater community of interest with the region served by the more distant station.

(f) *Applicability of this section.* The provisions of this section do not apply to any signals which a CATV was supplying to subscribers in its community on December 20, 1968 (or pursuant to prior Commission authorization, whenever given), or to carriage of the same signals by any other CATV system that subsequently commences operation in the same community, unless it is proposed to extend lines into another community. Where a CATV system is limited by order of the Commission to carrying signals governed by this section only in particular geographic areas of a community, the provisions of this section shall apply to carriage of such signals by any CATV system in all other areas of that community.

4. In § 74.1109, a new note is added as follows:

§ 74.1109 Procedures applicable to petitions for waiver of the rules, additional or different requirements and rulings on complaints or disputes.

* * * * *

NOTE: It is not contemplated that the provisions of § 74.1107 (b), (c), and (d) of this chapter, relating to carriage of television broadcast signals in specified zones, will be waived.

[F.R. Doc. 68-15045; Filed, Dec. 19, 1968; 8:45 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1968 Rev., Supp. No. 8]

IOWA SURETY COMPANY

Surety Companies Acceptable on Federal Bonds

A certificate of authority as an acceptable surety on Federal bonds has been issued by the Secretary of the Treasury to the following company under sections 6 to 13 of Title 6 of the United States Code. An underwriting limitation of $65,000 has been established for the company.

Name of company, location of principal executive office, and State in which incorporated

IOWA SURETY COMPANY
DES MOINES, IOWA
IOWA

Certificates of authority expire on June 30 each year, unless sooner revoked, and new certificates are issued on July 1, so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact fidelity and surety business and other information. Copies of the circular, when issued, may be obtained from the Treasury Department, Bureau of Accounts, Audit Staff, Washington, D.C. 20226.

Dated: December 16, 1968.

[SEAL] JOHN K. CARLOCK,
Fiscal Assistant Secretary.

[F.R. Doc. 68-15174; Filed, Dec. 19, 1968; 8:46 a.m.]

DEPARTMENT OF JUSTICE

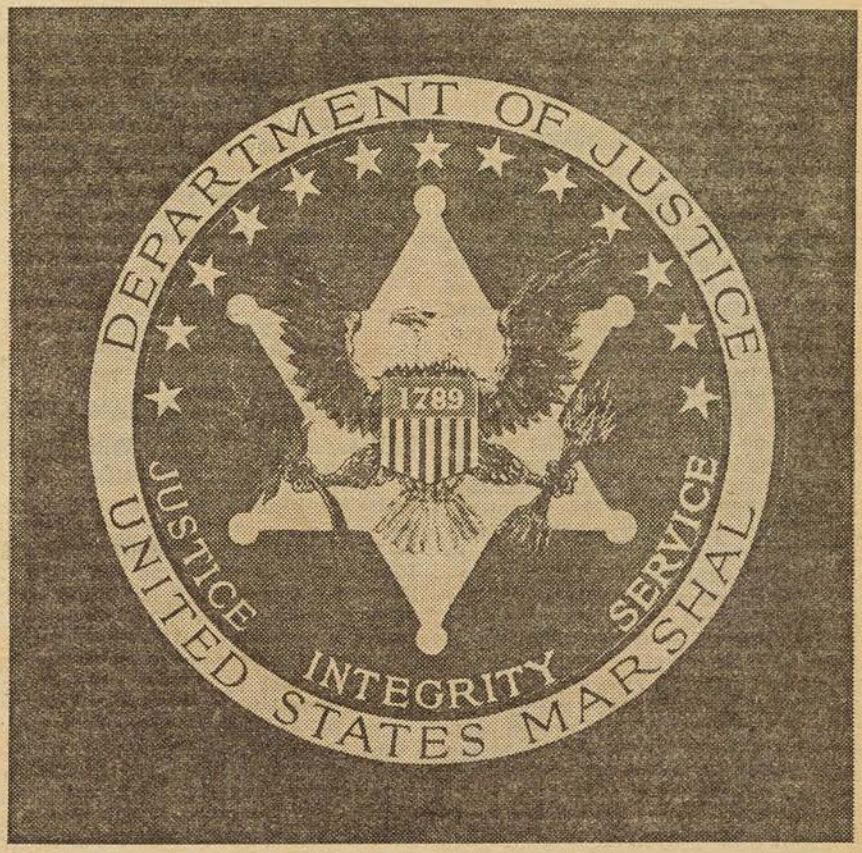
[Order 407-68]

U.S. MARSHALS SERVICE

Establishing Official Seal

By virtue of the authority vested in me by section 509 of title 28 and section 301 of title 5 of the United States Code, I hereby establish the below-pictured seal, designed and executed by U.S. Marshal Robert F. Morey of Massachusetts, as the official seal of the U.S. Marshals Service.

The seal is symbolic of the rich heritage and devotion to duty of the U.S. Marshals. The six-pointed silver U.S. Marshals' badge, which brought law and order to the Old West, is cast in a blue field which, as in the American flag, is representative of vigilance, perseverance, and justice. The blue field contains 13 stars representative of the first 13 U.S. Marshals appointed by President Washington and the motto of the U.S. Marshals Service—Justice, Integrity, Service. Superimposed on the six-pointed badge is the American eagle clutching in his talons the symbolic olive branch and arrows. The eagle's breastplate shield bears the colors of the American flags under which the U.S. Marshals have served. The blue field over the red and white stripes on the shield contains the numerals 1789, the year in which the Office of U.S. Marshal was created. Surrounding the blue field in which the six-pointed star is cast is a red ring, symbolic of the hardiness and courage of the U.S. Marshals and the blood they have lost in upholding the Constitution and laws of the United States. Outside the red ring is a gold ring bearing the words, "Department of Justice" and "United States Marshal." The ring on the outer edge of the seal is brown, representative of the earth.



Dated: December 11, 1968.

RAMSEY CLARK,
Attorney General.

[F.R. Doc. 68-15132; Filed, Dec. 19, 1968; 8:45 a.m.]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. A-481]

CHARLES AND JOAN BUDAI

Notice of Loan Application

DECEMBER 16, 1968.

Charles Budai and Joan Budai, Post Office Box 1181, Sitka, Alaska 99835, have applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used 41-foot registered length wood vessel to engage in the fishery for salmon, tuna, shrimp, halibut, sablefish, and crab.

Notice is hereby given pursuant to the provisions of Public Law 89-85 and Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), that the above-entitled application is being considered by the Bureau of Commercial Fisheries, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or

injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, Bureau of Commercial Fisheries, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operations of the vessel will or will not cause such economic hardship or injury.

WILLIAM M. TERRY,
Acting Director,
Bureau of Commercial Fisheries.

[F.R. Doc. 68-15195; Filed, Dec. 19, 1968; 8:48 a.m.]

[Docket No. G-417]

GEORGE M. BURCHAM AND GEORGE McCOY BURCHAM, JR.

Notice of Loan Application

DECEMBER 16, 1968.

George M. Burcham and George McCoy Burcham, Jr., 3226 Louisville Road, Augusta, Ga. 30906, have applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used 45.7-foot registered length wood vessel to engage in the fishery for snapper, groupers, and related species.

Notice is hereby given pursuant to the provisions of Public Law 89-85 and Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), that the above-entitled application is being considered by the Bureau of Commercial Fisheries, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, Bureau of Commercial Fisheries, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operations of the vessel will or will not cause such economic hardship or injury.

WILLIAM M. TERRY,
Acting Director,
Bureau of Commercial Fisheries.

[F.R. Doc. 68-15196; Filed, Dec. 19, 1968; 8:48 a.m.]

[Docket No. S-448]

DEXTER B. KYLE

Notice of Loan Application

DECEMBER 16, 1968.

Dexter B. Kyle, Box 372, Mead, Wash. 99021, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used 33.2-foot registered length wood vessel to engage in the fishery for salmon, halibut, and lingcod.

Notice is hereby given pursuant to the provisions of Public Law 89-85 and Fisheries Loan Fund Procedures (50 CFR Part 250, as revised); that the above-entitled application is being considered by the Bureau of Commercial Fisheries, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, Bureau of Commercial Fisheries, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operations of the vessel will or will not cause such economic hardship or injury.

WILLIAM M. TERRY,
Acting Director,
Bureau of Commercial Fisheries.

[F.R. Doc. 68-15197; Filed, Dec. 19, 1968; 8:48 a.m.]

Office of the Secretary

[Order 2503, Amdt. 79]

COMMISSIONER OF INDIAN AFFAIRS

Delegation of Authority With Respect to Specific Legislation

Section 30 of Order 2508, as amended (20 F.R. 3834, 5106; 21 F.R. 7027, 7655; 24 F.R. 272; 25 F.R. 436, 575, 729, 1385, 1994, 4655, 7192, 8892; 26 F.R. 6944; 27 F.R. 2328; 28 F.R. 1072, 2199, 2927, 5687; 29 F.R. 7611, 17936; 30 F.R. 17, 7674, 8755, 12499; 32 F.R. 10117; 33 F.R. 15455) is further amended by the addition under paragraph (a) of a new subparagraph to read as follows:

SEC. 30. *Authority under specific acts.*

(a) In addition to any authority delegated elsewhere in this order, the Commissioner of Indian Affairs, except as provided in paragraph (b) of this section, is authorized to perform the functions and exercise the authority vested in the Secretary of the Interior by the following acts or portions of acts or any acts amendatory thereof:

* * * * *

(40) The Act of July 18, 1968 (82 Stat. 356), which authorizes the sale or exchange of certain tribal lands within the exterior boundaries of the Flathead Reservation, Mont., and which also authorizes the acquisition of Indian or non-Indian-owned lands within the reservation boundaries.

DAVID S. BLACK,
Acting Secretary of the Interior.

DECEMBER 13, 1968.

[F.R. Doc. 68-15155; Filed, Dec. 19, 1968; 8:45 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

FEDERAL MEAT AND POULTRY INSPECTION

Establishment of Microbiological Criteria To Supplement Regular Sanitary Inspections, etc.

Under authority of the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) and the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), the Consumer and Marketing Service is developing microbiological criteria for meat and poultry products to supplement regular sanitary inspections and chemical and physical analyses in evaluating the acceptability of plant operations and processing procedures, ingredients and finished products.

Development of criteria. In accordance with recommendations of the Subcommittee on Food Microbiology, Food Protection Committee, NAS-NRC,[1] the Consumer and Marketing Service is evaluating the levels of bacteria of various types that are associated with what is considered good commercial practice in producing, processing, handling and storing meat and poultry products. Definitions of what is considered good commercial practices will be developed by the Consumer and Marketing Service in cooperation with industry technicians. Recognizing the limitation of bacterial criteria when applied to foods generally, products will be classified as to the degree of correlation between the presence of microbiological organisms and mishandling of the products.

Consideration will be taken of:

(1) The past history of specific products and their potential for causing food poisoning.

(2) The probability of thorough cooking of specific products by the consumer prior to consumption.

(3) The effect of normal processing, handling and storing techniques on microbial types and numbers in specific products.

When proposed bacterial level criteria have been developed for specific products, they will be set forth in a notice of proposed rule-making in the FEDERAL REGISTER, wherein other related changes in the regulations will also be proposed and interested persons will be afforded opportunity to comment thereon.

It is contemplated that if bacterial levels are prescribed for certain products the microbial condition of the final product would not normally be used as a sole basis for decision as to adulteration of the lot, and if the bacterial levels

[1] National Academy of Sciences-National Research Council. 1964—"An Evaluation of Public Health Hazards from Microbiological Contamination of Foods," Food Protection Committee of the Food and Nutrition Board, NAS-NRC, Publication 1195, Washington, D.C.

of a specific product are within limits of variability consistent with good commercial practice and no present or potential health hazard is demonstrable, no decomposition is organoleptically evident, and no adulteration is otherwise shown, the product would be permitted to be distributed. Conversely, it is anticipated that when bacterial levels of a specific lot of product exceed the criteria reflecting good commercial practices by significant amounts, then further production would be halted pending identification and correction of causative factors, any product on hand would be retained, and the final disposition of the product would be made on the basis of:

(1) The present or potential health hazard.
(2) Statistical significance of the data.
(3) Nature of the microorganisms.
(4) Organoleptic evidence of decomposition.
(5) Other evidence of adulteration.

If product is found to be otherwise acceptable but bacterial levels are higher than those consistent with good commercial practices, alternative dispositions of the product might be permitted depending upon counts and types of bacteria found. These dispositions could include:

(1) Destruction.
(2) Reprocessing.
(3) Sorting.
(4) Release, if it is determined that the lot is not adulterated.

In all cases where lots of product demonstrate unacceptable microbial quality, the information could be used in identifying and correcting the unsatisfactory conditions.

Recognized foreign inspection programs would be expected to use similar procedures. The same bacterial criteria used for finished domestic products would be applied to the corresponding imported products.

Done at Washington, D.C., this 17th day of December 1968.

R. K. SOMERS,
Deputy Administrator,
Consumer Protection.

[F.R. Doc. 68–15210; Filed, Dec. 19, 1968; 8:49 a.m.]

Packers and Stockyards Administration

HILL & MONTGOMERY LIVESTOCK AUCTION CO. ET AL.

Notice of Changes in Names of Posted Stockyards

It has been ascertained, and notice is hereby given, that the names of the livestock markets referred to herein, which were posted on the respective dates specified below as being subject to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), have been changed as indicated below.

Original name of stockyard, location, and date of posting	*Current name of stockyard and date of change in name*
ARKANSAS	
Hill & Montgomery Livestock Auction Company, Batesville, July 10, 1963.	Nuel Hill Livestock Auction, Oct. 8, 1968.
IOWA	
The Sales Company of Hawarden, Hawarden, Jan. 7, 1957.	Sales Company of Hawarden, Inc., April 15, 1968.
MONTANA	
Havre Livestock Market Center, Havre, Feb. 20, 1950.	Havre Livestock Commission Co., July 1, 1968.
SOUTH DAKOTA	
Timber Lake Sales Company, Timber Lake, June 27, 1957.	Timber Lake Livestock Auction, Sept. 9, 1968.
WEST VIRGINIA	
Evans Stockyard, Inc., Elkins, Nov. 2, 1959.	Elkins Stockyard, Inc., Sept. 1, 1968.

Done at Washington, D.C., this 12th day of December 1968.

G. H. HOPPER,
Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[F.R. Doc. 68–15211; Filed, Dec. 19, 1968; 8:49 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

ALLOTMENT RATIOS FOR VOCATIONAL EDUCATION ACT OF 1963, AS AMENDED BY VOCATIONAL EDUCATION AMENDMENTS OF 1968

Promulgation

Pursuant to section 103(d)(2) of the Vocational Education Amendments of 1968 (Public Law 90–576), which amends the Vocational Education Act of 1963 (Public Law 88–210), the following allotment ratios computed for the purpose of making grants under Parts B and C of title I of the Vocational Education Amendments of 1968 to the States, the District of Columbia, American Samoa, Guam, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and the Virgin Islands are hereby promulgated for the fiscal year ending June 30, 1970:

Alabama	0.6000
Alaska	.4156
Arizona	.5681
Arkansas	.6000
California	.4154
Colorado	.5069
Connecticut	.4000
Delaware	.4119
Florida	.5534
Georgia	.6000
Hawaii	.4769
Idaho	.5844
Illinois	.4041
Indiana	.4882
Iowa	.5015
Kansas	.5157
Kentucky	.6000
Louisiana	.6000
Maine	.5806
Maryland	.4560
Massachusetts	.4437
Michigan	.4535
Minnesota	.5110
Mississippi	.6000
Missouri	.5244
Montana	.5573
Nebraska	.5126
Nevada	.4157
New Hampshire	.5238
New Jersey	.4161
New Mexico	.6000
New York	.4060
North Carolina	.6000
North Dakota	.5950
Ohio	.4858
Oklahoma	.5839
Oregon	.5076
Pennsylvania	.4978
Rhode Island	.4820
South Carolina	.6000
South Dakota	.5912
Tennessee	.6000
Texas	.5696
Utah	.5799
Vermont	.5588
Virginia	.5593
Washington	.4548
West Virginia	.6000
Wisconsin	.5012
Wyoming	.5308
District of Columbia	.4000
American Samoa	.6000
Guam	.6000
Puerto Rico	.6000
Trust Territory of the Pacific Islands	.6000
Virgin Islands	.6000

Dated: December 12, 1968.

HAROLD HOWE II,
U.S. Commissioner of Education.

[F.R. Doc. 68–15182; Filed, Dec. 19, 1968; 8:47 a.m.]

Food and Drug Administration

AMERICAN CYANAMID CO.

Notice of Filing of Petition for Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 9B2363) has been filed by the American Cyanamid Co., Wayne, N.J.

07470, proposing that § 121.2562 *Rubber articles intended for repeated use* (21 CFR 121.2562) be amended to provide for the safe use of *n*-butyl, isooctyl, and *n*-propyl esters of tall oil fatty acids as plasticizers in rubber articles intended for repeated use in contact with food.

Dated: December 10, 1968.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 68-15187; Filed, Dec. 19, 1968; 8:47 a.m.]

AMERICAN CYANAMID CO.

Notice of Filing of Petition Regarding Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 9H2370) has been filed by American Cyanamid Co., Wayne, N.J. 07470, proposing that § 121.2505 *Slimicides* (21 CFR 121.2505) be amended to provide for the safe use of vinylenebisthiocyanate to control slime in the manufacture of paper and paperboard.

Dated: December 11, 1968.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 68-15188; Filed, Dec. 19, 1968; 8:47 a.m.]

MONSANTO CO.

Notice of Filing of Petition Regarding Pesticide Chemicals

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 9F0776) has been filed by Monsanto Co., 800 North Lindbergh Boulevard, St. Louis, Mo. 63166, proposing the establishment of tolerances for negligible residues (21 CFR Part 120) of the herbicide 2-chloro-2',6'-diethyl-*N*-(methoxymethyl) acetanilide and its metabolites expressed as 2-chloro-2',6'-diethyl-*N*-(methoxymethyl) acetanilide in or on the raw agricultural commodities: Cotton forage and peanut forage at 0.2 part per million; and cottonseed and peanuts at 0.05 part per million.

The analytical method proposed in the petition for determining residues of the herbicide is a gas-liquid chromatographic technique using a hydrogen flame-ionization detector.

Dated: December 11, 1968.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 68-15189; Filed, Dec. 19, 1968; 8:47 a.m.]

STAUFFER CHEMICAL CO.

Notice of Filing of Petition Regarding Pesticide Chemicals

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 9F0769) has been filed by Stauffer Chemical Co., 1200 South 47th Street, Richmond, Calif. 94804, proposing the establishment of tolerances for negligible residues (21 CFR Part 120) of the insecticide *N*-(mercaptomethyl) phthalimide *S*-(*O*,*O*-dimethyl phosphorodithioate) and its oxygen analog (1) in or on potatoes at 0.1 part per million and (2) in meat and fat of meat of cattle, goats, hogs, and sheep at 0.2 part per million from application to the animals for control of ectoparasites.

The analytical methods proposed in the petition for determining residues of the insecticide are gas chromatographic procedures using (1) a flame photometric detector specific for sulfur when analyzing animal tissue or (2) a thermionic detector with a rubidium sulfate tip specific for phosphorus when analyzing crops.

Dated: December 11, 1968.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 68-15190; Filed, Dec. 19, 1968; 8:48 a.m.]

Public Health Service

CONSUMER PROTECTION AND ENVIRONMENTAL HEALTH SERVICE

Statement of Organization, Functions, and Delegations of Authority

This amendment to the Statement of Organization, Functions, and Delegations of Authority of the Department of Health, Education, and Welfare, reflects the implementation of the Reorganization Orders signed by the Secretary on March 13, 1968 (33 F.R. 4894), April 1, 1968 (33 F.R. 5426), and July 1, 1968 (33 F.R. 9909), with respect to the organization of the Consumer Protection and Environmental Health Service as an operating agency of the Department. There is hereby established a new Part 3 of the Department's Statement for the Consumer Protection and Environmental Health Service as set forth below. Those provisions in Part 4 (Public Health Service) and Part 10 (Food and Drug Administration) of the Department's Statement of Organization, Functions, and Delegations of Authority which are inconsistent with the provisions of the new Part 3 are superseded herewith.

SEC. 3-A *Mission.* The Consumer Protection and Environmental Health Service provides leadership and direction to programs and activities designed to assure effective protection for every American against hazards to health in his environment and in the products and services which enter his life. To these ends, the Consumer Protection and Environmental Health Service:

(1) Conducts and supports research to advance the knowledge of the impact of the environment on man, and to identify those hazards having significant potential for harmful effects on the individual or the environment. Further, conducts and supports research and development to promote the discovery and to assure the development, improvement, and application of devices and techniques necessary to meet existing emerging and potential needs for consumer protection and environmental improvement.

(2) Develops criteria and establishes standards for consumer products and environmental contaminants to protect and improve the quality of man's environment.

(3) Provides technical and financial support to State and local consumer protection and environmental health efforts and encourages State and local agencies to carry out vigorous voluntary and regulatory compliance programs.

(4) Exercises Federal regulatory authority and takes appropriate enforcement action to improve consumer protection and environmental health practices when corrective action cannot be obtained through other means.

(5) Conducts and supports surveillance programs on a continuing basis to assess total environmental contaminant levels and the impacts of contaminants on man's health and welfare.

(6) Through education programs, demonstrations, and other means, informs all segments of society on benefits gained from high quality consumer products and a healthful environment.

(7) Supports in consort with the Bureau of Health Manpower, National Institutes of Health, the development of manpower needed to work in consumer protection and environmental health activities through training programs, fellowships, and grants.

SEC. 3-B *Organization.* The Consumer Protection and Environmental Health Service is directed by the Administrator, Consumer Protection and Environmental Health Service, who is responsible to the Assistant Secretary (Health and Scientific Affairs). The Office of the Administrator consists of the following major components, with functions as indicated:

(1) *Office of the Administrator*—(a) *Immediate Office of the Administrator.* The Administrator, with the assistance of the Deputy and Associate Administrator, provides leadership and direction to all programs and activities of the Consumer Protection and Environmental Health Service; establishes basic policies, goals, and objectives for CPE and provides guidance, coordination and evaluation of progress in meeting Service objectives and goals. Through special staff assistants: coordinates inter-governmental and international relationships; provides CPE leadership in

legislative affairs and manpower development; provides liaison with Assistant Secretary level on grant policy; guides and coordinates CPE standards, development and compliance activities; provides CPE liaison and coordination of Regional Office activities; conducts security, policy, and procedural review activities; and ensures equal opportunity for employees; coordinates CPE assistance in emergency health readiness planning for national emergencies and in providing assistance in natural disasters.

(b) *Office of Public Affairs.* Develops media, institutional and public understanding for the role and mission of the Consumer Protection and Environmental Health Service. Conducts a comprehensive public education program. Provides consumer protection advisory services to consumer interest groups. Provides support to the Administrator in the development and clearance of speeches, articles, reports, films and other written or visual materials as necessary. Serves as a focal point for responding to requests for information under the Public Information Act.

(c) *Office of Administration.* Under the direction of the Assistant Administrator for Administration, serves as principal resource to the Administrator on all phases of administrative management inherent in the operations of CPE. Adapts Department policies and develops administrative and managerial policies for CPE. Provides leadership and direction to the operating Administrations for the implementation of these policies. Plans, directs, coordinates and evaluates centralized staff management and administrative operational activities necessary at the Service headquarters level to assure the effective utilization and control of management resources. Provides executive leadership, coordination, technical assistance and management consulting services to staff offices in the operating Administrations of CPE in developing and carrying out their management programs and administrative operations. Participates with the Administrator and other officials of CPE in appraising accomplishments and in developing CPE programs and objectives.

(c–1) *Division of Accounting.* Provides leadership, advice and assistance in the accounting activities of CPE. Formulates programs, policies and procedures to provide for the accounting requirements of the organizations and programs within CPE. Provides professional and technical guidance to the accounting and financial management personnel for the programs and accounting points of CPE. Conducts accounting studies related to program activities. Provides financial management input to the management planning and policy making activities of CPE.

(c–2) *Division of Administrative Services.* Provides leadership for the administrative support programs of CPE which include printing, telecommunications, facilities planning, and construction and space management. Develops and issues CPE policies, procedures and standards relating to these support activities. Conducts surveys and appraises the effectiveness of administrative support matters with Health Services and Mental Health Administration, Office of the Secretary, General Services Administration, Government Printing Office and other organizations. Provides administrative services for the Office of the Administrator. Maintains distribution and mailing lists.

(c–3) *Division of Budget.* Provides leadership for the improvement of CPE budget management activities. Develops policies and instructions for budget preparation and presentation. Participates with the Office of Program Development in the development of the Program and Financial Plan and related procedures. Directs and manages a system of budgetary-management controls. Participates in the development of policies and procedures concerning financial aspects of CPE programs. Plans and implements budgetary systems and procedures within CPE.

(c–4) *Division of Data Processing.* Directs the development and performance of data processing systems designed to provide CPE with program and administrative data for planning, programing, budgeting, and other managerial purposes. Manages and operates computer facilities to provide services to CPE headquarters operations and to selected operations of the three Administrations in the headquarters area. Provides technical guidance regarding new ADP techniques and hardware and the need for contracts to supplement in-house data processing capabilities. Participates in studies to determine the need for new or refined ADP techniques. Maintains liaison with counterparts in other Government agencies on ADP matters.

(c–5) *Division of Management Systems.* Serves as analytical staff and principal advisory group on organization and management matters. Establishes policies for management systems activities within CPE. Reviews contracts originating outside the Division which have automatic data processing equipment implications. Participates in the development of ADP policies, procedures, and standards for CPE and monitors their implementation. Conducts Servicewide management analyses and organizational planning activities. Develops and issues Servicewide policies, procedures, and standards for administration and evaluation of directives, records, reports, forms, and correspondence management activities. Performs industrial and management engineering studies to improve CPE management practices. Provides consulting services and assistance to the operating agencies of CPE.

(c–6) *Division of Personnel.* Conducts, coordinates, and provides leadership for CPE personnel management programs in the areas of recruitment and staffing, position classification, and salary administration, employee-management relations and employee development and training. Develops policies, procedures, and standards for personnel programs and operations. Evaluates CPE personnel programs, systems, and activities. Represents CPE on personnel matters with the Department, the Civil Service Commission, and the public. Provides operating personnel services for the Office of the Administrator.

(c–7) *Division of Procurement and Supply Management.* Develops and formulates Servicewide procurement and personal property policies and procedures. Provides advisory services to the operating procurement programs. Develops and furnishes contract cost advisory services to all CPE procurement elements. Reviews all Service contract and personal property functions to assure compliance with current procurement regulations and procedures. Evaluates performance of CPE procurement and personal property activities. Assists in liaison matters with the Department and other government organizations. Reviews appeals, deviations, findings and determinations, and requests for waivers, directed to the Office of the Secretary.

(d) *Office of Program Development.* Under the direction of the Assistant Administrator for Program Development, formulates an operational strategy for dealing with consumer protection and environmental health problems. Develops an integrated planning process to: (1) define CPE mission, goals, and objectives; (2) develop programs to implement CPE objectives; (3) provide an analytical base for choosing programs; and (4) evaluate program performance. Assesses CPE programs to assure a coordinated effort toward achieving CPE goals and objectives.

(d–1) *Division of Planning Strategy.* Provides leadership in the development and installation of a broad based planning process. Participates in the development of CPE goals and objectives and prepares appropriate policy statements. Recommends allocation of resources in accordance with relative priorities based on program goals and objectives. Develops an operational strategy for dealing with CPE problems. Prepares material and documents related to the 5-year Program and Financial Plan. Maintains liaison with other PHS organizations to insure CPE input to areas of common concern such as the Model Cities and Comprehensive Health Planning.

(d–2) *Division of Evaluation and Analysis.* Evaluates programs and accomplishments in relation to approved plans and their supporting objectives, and in relationship to the changing nature of the problems to which they are addressed. Conducts special studies with particular emphasis on cost-effectiveness and cost-benefit analysis and assists constituent Administrations in studies on major problems and program issues. Assesses new approaches to achieving CPE goals and their impact on consumer health and welfare. Maintains liaison with the Office of the Assistant Secretary for Planning and Evaluation on related Departmental program evaluations, analyses and special studies.

(d–3) *Division of Planning Systems.* Develops the Planning Programing Budgeting System program structure and systems and procedures for acquiring and organizing financial and program data required for planning purposes.

Assures application of planning results into the budget allocation process. Coordinates the development of CPE Program and Financial Plan. Maintains liaison with the Division of Budget to assure close coordination between planning operations and procedures and budgetary management activities to which they are related. Maintains liaison with the Director of Systems Development, OASPE, on matters related to the development and submission of the Program and Financial Plan.

(e) *Office of Research and Development.* Under the direction of the Assistant Administrator for Research and Development, provides scientific leadership in evaluating the impact of man's activities on the ecologic system in which man lives. Assures, through a systems approach, that balanced, mission-oriented research and development, test and engineering demonstration programs are conducted to provide a sound scientific and technological basis for action programs. Develops R&D program strategies and formulates policies related to R&D programs and priorities and allocation of resources for R&D. Establishes and maintains working relationships with other agencies in the Department, particularly National Institutes of Health, other Federal agencies, the academic community, and industry to assure a balanced comprehensive R&D activity. Assists in development of criteria related to consumer products and environmental contaminants. Evaluates the adequacy of environmental surveillance programs to detect existing or potential consumer protection or environmental problems and assists in developing upgraded surveillance systems and techniques. Develops a Servicewide Scientific and Technical Information System as both an R&D tool and a major mechanism for exchange of technical data and information with organizations outside the Service. Participates in developing policy on scientific and technical management of R&D grants and provides liaison with HEW and other Federal agencies on research grants policy.

(f) *Office of Regional Assistant Administrator.* Under the direction of the Administrator, the Regional Assistant Administrator in each of the DHEW Regional Offices provides leadership and supervision for the total CPE effort at the Regional level. Serves as primary advisor and informant to the Regional Director on all matters pertaining to activities of CPE in the Region. Reviews and approves CPE comprehensive health planning projects. Exercises general leadership over, and coordinates, all technical assistance activities of CPE in the region. Serves as primary CPE contact with State and local executive levels, obtaining and coordinating input from the Administrations. Evaluates CPE programs and activities at the Regional level. Maintains a current knowledge of State and local activities related to the CPE mission. Develops rapport with other Federal agencies and appropriate industry and consumer groups for the purpose of furthering the CPE misison. Performs emergency functions as directed by the Administrator and the Regional Director under applicable statutes and regulations related to national emergencies and natural disasters.

(2) *Food and Drug Administration.* The mission of the Food and Drug Administration (FDA) is to protect the public health of the Nation as it may be impaired by foods, drugs, cosmetics, therapeutic devices, hazardous household substances, poisons, pesticides, food additives, flammable fabrics, and various other types of consumer products. FDA's regulatory functions are geared to insure that: Foods are safe, pure and wholesome; drugs are safe and effective; cosmetics are harmless; therapeutic devices are safe and effective; all of the above are honestly and informatively labelled and packaged; dangerous household products carry adequate warnings for safe use and are properly labelled; counterfeiting of drugs is stopped; and that hazards incident to the use of various types of consumer products are reduced. The Food and Drug Administration is administered by a Commissioner, under the direction of the Administrator, Consumer Protection and Environmental Health Service.

(a) *Immediate Office of the Commissioner.* The Commissioner and the Deputy Commissioner are responsible for the efficient and effective implementation of FDA's mission. They participate in the development of CPE goals and objectives.

(b) *Office of the Associate Commissioner for Compliance.* Functions as principal advisor to the Commissioner on regulations and compliance-oriented matters which impact on FDA policy and direction and long-range program goals. Evaluates and coordinates FDA's overall compliance effort to assure optimum use of FDA resources (combined with other Federal, State, and local resources), a balance between voluntary and regulatory compliance, and FDA responsiveness to consumer needs. Stimulates an awareness within FDA of the need for prompt and positive action to secure compliance by the regulated industries. Directs and coordinates the regulation making activities of the Administration and the preparation of Federal Register material. Operates FDA emergency preparedness and civil defense program. Directs the Office of Certification Services.

(b–1) *Office of Certification Services.* Takes action concerning antibiotic and insulin samples submitted for certification. Reviews and takes action on requests for exemption from antibiotic certification. Coordinates, directs, and reviews the preparation of regulations concerning the antibiotic and insulin certification program. Maintains and coordinates the development of information concerning manufacturers of antibiotics including manufacturing facilities, production methods, quality control systems and quality of products.

(c) *Office of the Associate Commissioner for Science.* Functions as principal advisor to the Commissioner on scientific matters which impact on FDA policy and direction and long-range program goals. Provides leadership on scientific matters and stimulates scientific and technological achievement in FDA. Provides program and professional leadership concerning the development, application, and evaluation of research, training, and fellowship grant activities. Provides leadership and direction to the Science Information Facility. Provides for the continuing appraisal of FDA scientific research programs including research performed by contract. Responsible for committee management within FDA. Directs the FDA safety program.

(d) *Office of Administration.* Under the direction of the Executive Officer, serves as principal advisor to the Commissioner on all phases of management inherent in the operations of FDA. Responsible for the effective utilization of management resources and the implementation of operating programs by coordinating the funding, manpower, facilities, and equipment needs of FDA. Provides leadership and direction to the divisions and activities of the Office of Administration which include the areas of financial management, personnel management, organization, procedures, data systems, procurement and property management, records management, equal employment opportunity, management improvement, and similar supporting activities.

(d–1) *Division of Financial Management.* Plans, directs, and coordinates a financial management program for FDA encompassing the areas of budget analysis, formulation and execution, and fiscal technical assistance. Participates in the determination of user charges. Provides staff assistance in justifying budgets through executive and Congressional echelons. After appropriation develops an orderly expenditure plan. Develops apportionment plans and issues allotments for expenditure. Makes periodic reports regarding the status of FDA's financial management.

(d–2) *Division of General Services.* Provides guidance and services for all general services programs including: procurement, contracts, administrative aspects of grants and fellowships; personal and real property management and accountability; space management and utilization; construction and engineering services; nationwide communications network; printing; reproduction and distribution; and mail and central records. Develops, recommends and implements agency-wide policies and procedures for all areas of general services.

(d–3) *Division of Management Systems.* Provides assistance to FDA officials in organization and operations analysis; planning and evaluation of operations; effective and economical use of resources; and analysis, design, and maintenance of operating systems and procedures. Conducts management surveys and studies of FDA administrative and program operations. Conducts organization studies and provides advisory services on organization matters. Develops and conducts management programs in directives management, reports and forms management, records

and correspondence management, and other management areas as assigned.

(d-4) *Division of Personnel Management.* Responsible for planning, developing, executing, and evaluating a comprehensive personnel management program for FDA including recruitment, placement, classification, pay administration, employee relations, employee services, employee-management relations, and employee and career development. Through this program, assists top management as well as operating units to expeditiously and efficiently achieve program objectives while insuring the application of the Federal merit system.

(e) *Office of the Assistant Commissioner for Education and Information.* Advises and assists the Commissioner concerning public information and education. Plans, coordinates, and participates in a comprehensive public information program that will create a positive atmosphere for FDA regulatory programs and will be conducive to the FDA personnel recruitment effort. Acts as a focal point for dissemination of news concerning FDA activities. Plans and conducts consumer education programs. Develops and coordinates a program of liaison with the medical profession designed to further understanding and support for FDA activities. Provides editorial, design, and graphic arts services. Answers public inquiries and corresponds with the public on topics of consumer interest.

(f) *Office of the Assistant Commissioner for Field Coordination.* Advises and assists the Commissioner regarding the development and execution of policies and operational guidelines which form the framework for management of the FDA Field Activities. Acts for the Commissioner in developing, issuing and approving or clearing proposals and instructions affecting the overall activities of the Regional and District Offices. Gives direction and counsel to field office management. Assesses and initiates action to improve the management posture of the field offices. Provides the central point within FDA to which headquarters offices can turn for coordinated field support services. Evaluates the performance and capabilities of the field executive staff and participates in the formulation of career development plans. Provides for coordination among district, headquarters, and regional offices.

(g) *Office of the Assistant Commissioner for Planning and Evaluation.* Advises and assists the Commissioner concerning FDA long-range planning, program development, and in providing FDA input into overall CPE program planning. Participates in defining program objectives within the context of CPE—wide program strategy. Conducts analytical studies to permit choice of alternative means of attaining program objectives. Coordinates the development of the FDA Program and Financial Plan and maintains it on a current basis. Evaluates effectiveness of FDA programs.

(h) *Office of Legislative and Governmental Services.* Advises the Commissioner concerning legislative and other needs necessary to develop effective and cooperative programs with foreign governments and the various States. Provides assistance in the analysis of State legislative needs and the development of model legislation and regulations. Coordinates analyses of FDA legislative needs, the development of FDA legislative proposals, and position papers on proposed legislation. Coordinates FDA's responses to Congressional inquiries, and inquiries from foreign, State and local government officials. Provides staff assistance, when requested, to FDA units in developing and implementing liaison concerning food and drugs with appropriate international organizations.

(i) *FDA Training Institute.* Conducts or arranges for the conduct of training and educational programs involving Federal, State, and local personnel in such scientific and technical areas as analytical chemistry, pesticides chemistry, advanced drug training, shellfish sanitation and certification, and science information; and in such compliance and management areas as inspection techniques, clerical operations, management techniques, and legal compliance activities. Develops cooperative programs with States, local governments, universities and others as may be necessary in carrying out FDA's health protection responsibilities. Develops or coordinates the development of appropriate training aids.

(j) *Bureau of Compliance.* Develops compliance and surveillance programs covering regulated industries and areas of related economic activity. Fosters development of good manufacturing practices and improved food sanitation. Develops or coordinates the development of regulations, model codes, and other standards covering industry practices. Develops and carries out programs designed to encourage compliance by industry on a voluntary basis. Administers the shellfish sanitation control program. Provides support and guidance upon request to the district offices in the handling of legal actions and provides headquarters case development, coordination, and contested case assistance.

(j-1) *Office of Operations and Industry Services.* Develops compliance and surveillance programs covering the food and drug industries and other regulated industries or areas of economic trade activity. Fosters development of good manufacturing practices and improved food sanitation. Develops or coordinates the development of regulations, model codes, and other standards covering industry practices. Develops and carries out programs designed to encourage compliance by industry on a voluntary basis including the conduct of national seminars and conferences, industry workshops, and the implementation of industry self-inspection and quality assurance programs.

(i) *Division of Operational Services.* Develops or coordinates the development of compliance and surveillance programs covering the food and drug industries and other regulated industries or areas of economic trade activity. Fosters development of good manufacturing practices and improved food sanitation. Develops or coordinates the development of regulations, model codes, and other standards and guides covering industry practices. Maintains data and other information concerning the degree of industry compliance.

(ii) *Division of Industry Services.* Promotes a better understanding of the requirements and objectives of the laws and regulations enforced by the FDA among regulated industry and encourages compliance on a voluntary basis. Assists in the implementation of industry self-inspection and quality assurance programs. Plans and conducts national seminars, symposia and conferences on specific industry compliance problems and develops applicable audiovisual materials. Assists FDA field offices, upon request, in planning and conducting industry workshops and seminars on Good Manufacturing Practices (GMP) and other types of problem-oriented workshops and conferences. Develops and maintains effective channels of communication with industry trade associations, and initiates and cosponsors with trade associations, professional and academic groups, national seminars on specific compliance problems.

(j-2) *Office of Control and Guidance.* Administers the shellfish sanitation control program. Provides support and guidance in handling legal actions and provides liaison between FDA and the General Counsel and other Government agencies in the conduct of various enforcement actions.

(i) *Division of Sanitation Control.* Administers the National Shellfish Certification Program for the maintenance and improvement of the sanitary quality of commercial shellfish. Encourages the adoption of adequate shellfish sanitation standards by States and localities and provides technical assistance to State and local agencies and to industry on sanitation problems and new development in shellfish sanitation.

(ii) *Division of Case Guidance.* Provides support and guidance upon request to the district offices in the handling of legal actions and provides headquarters case development, coordination, and contested case assistance. Develops and maintains legal guidelines. Reviews and approves legal actions in cases of national scope requiring headquarters coordination. Performs necessary liaison with the Office of Certification Services and the district offices in connection with the conduct of district office regulatory activities relating to antibiotics, insulin and color additives. Issues advisory opinions resulting from specific requests from industry, trade associations, Government agencies, and Congress. Develops and maintains a codified system for compiling and issuing regulatory policy and procedures for the guidance of FDA headquarters and field personnel.

(k) *Bureau of Medicine.* Develops and recommends medical policy of the Food and Drug Administration with respect to efficacy and safety of drugs and devices for man. Evaluates substances

found, or proposed for use, in foods, drugs, cosmetics, and hazardous household substances. Evaluates New Drug Applications (NDA) and claims for investigational drugs (IND). Operates an adverse drug reaction reporting program. Conducts, through contract, a program of clinical studies of drugs and devices. Coordinates medical aspects of FDA's investigational programs, new drug hearings, and court cases. Conducts programs to reduce accidental hazards from consumer products and from poisoning by toxic substances. Conducts epidemiological studies in areas covered by Bureau functions including studies of pesticides and their effect on man.

(k–1) *Office of Marketed Drugs.* Evaluates safety and efficacy data and proposed labeling in supplements to new drug applications. Conducts continuing surveillance and evaluation of labeling, clinical experience, and reports submitted by an applicant, under the records and reports requirements, of all drugs for which a new drug approval is in effect. Makes recommendations concerning withdrawal of approval of the new drug application. Reviews inspection and other findings designed to reveal whether new drugs are being marketed in accord with commitments contained in new drug applications.

(i) *Division of Cardiopulmonary-Renal Drug Surveillance.* Performs functions of the Office of Marketed Drugs with regard to drugs classified as cardiopulmonary-renal drugs.

(ii) *Division of Metabolic-Endocrine Drug Surveillance.* Performs functions of the Office of Marketed Drugs with regard to drugs classified as metabolic, endocrine and anti-infective drugs.

(iii) *Division of Neuropharmacological Drug Surveillance.* Performs functions of the Office of Marketed Drugs with regard to drugs classified as neuropharmacologic drugs.

(iv) *Division of Surgical-Dental Drug Surveillance.* Performs functions of the Office of Marketed Drugs with regard to drugs classified as surgical adjuncts, dental, oncology, and radiopharmaceutical drugs.

(k–2) *Office of Medical Review.* Provides expert medical guidance and opinion in support of FDA's regulatory and informational functions. Provides the Post Office Department with data for medical fraud cases. Reviews labeling for nonprescription drugs, therapeutic devices, clinical devices, cosmetics, special dietary foods, food additives, and foods and recommends actions to correct potential danger to health violations, false claims, inadequate directions for use, and inadequate warning and cautionary information. Develops labeling standards for nonprescription and "not new" prescription drugs. Maintains surveillance of drugs marketed without a New Drug Application.

(i) *Division of Case Review.* Reviews medical content of proposed legal actions on drugs, cosmetics and foods involving medical issues. Directs, designs, and monitors FDA sponsored clinical studies required to support legal actions.

(ii) *Division of Clinical Devices.* Reviews new and marketed clinical devices intended for use in hospitals, clinics, and physicians' offices, to determine those that should; (1) be exempt from any controls, (2) be subject to manufacturing standards, and (3) be reviewed to determine safety and efficacy prior to marketing. Develops standards for the manufacture of clinical devices to insure safety, reliability, and effectiveness.

(iii) *Division of Medical Devices.* Designs, directs, and monitors investigations and physical testing of marketed therapeutic devices to obtain scientific and medical facts necessary to support medical policy for regulatory action on violative devices. Reviews medical content of proposed legal actions on marketed therapeutic devices.

(k–3) *Office of Medical Support.* Obtains and evaluates reports of adverse reactions from the use of drugs. Monitors and evaluates professional journal advertising, and promotional and related labeling to determine whether claims are false and misleading. Provides medical support for related regulatory actions. Coordinates and monitors the review of the professional performance of research contracts. Conducts reviews of scientific investigators and clinical investigations in the IND and NDA areas. Provides supporting statistical services and drug indexing services.

(i) *Division of Drug Experience.* Collects and evaluates adverse drug experiences. Develops, tests, and coordinates operational systems for the processing of adverse reaction information. Disseminates a semimonthly Alert Report to achieve a valid and meaningful "Early Warning System." Monitors FDA participation in World Health Organization's program to implement an international drug monitoring system.

(ii) *Division of Medical Advertising.* Provides medical evaluations of prescription drug advertisements and promotional and related labeling. Formulates expert medical opinion which is used as a basis for regulatory actions to deal with false or misleading advertising.

(iii) *Division of Research and Liaison.* Reviews the professional performance of research contracts. Develops the Bureau's professional career program. Provides leadership for the Bureau's Research Committee that determines need for and arranges for extramural clinical and scientific studies with universities or private organizations.

(iv) *Division of Scientific Investigations.* Conducts special, field, and record reviews of clinical investigators and investigations in the NDA and IND areas. Contacts clinical and academic sources to encourage standards for the conduct of clinical investigations.

(v) *Division of Statistics.* Provides biostatistical services in support of the programs of the Bureau. Abstracts, summarizes, codes, stores and retrieves medical, scientific and technical data contained in drug applications and other scientific reports received by the Bureau.

(k–4) *Office of New Drugs.* Evaluates new drug applications (NDA), submitted by manufacturers for permission to market new drugs, for safety and efficacy; evaluates adequacy of directions for use and warnings against misuses appearing in proposed labeling; evaluates manufacturing and laboratory methods, facilities and controls exercised in factories producing new drugs. Reviews notices of claimed investigational exemption for new drug (IND) and recommends action to restrict or stop further testing.

(i) *Division of Anti-Infective Drugs.* Performs the functions of the Office of New Drugs with regard to drugs classified anti-infective drugs.

(ii) *Division of Cardiopulmonary and Renal Drugs.* Performs the functions for the Office of New Drugs with regard to drugs classified cardiopulmonary and renal drugs.

(iii) *Division of Dental and Surgical Adjuncts.* Performs the functions of the Office of New Drugs with regard to drugs classified as dental and surgical adjuncts.

(iv) *Division of Metabolism and Endocrine Drugs.* Performs the functions of the Office of New Drugs with regard to drugs classified as metabolism and endocrine drugs.

(v) *Division of Neuropharmacological Drugs.* Performs the functions of the Office of New Drugs with regard to drugs classified neuropharmacological drugs.

(vi) *Division of Oncology and Radiopharmaceuticals.* Performs the functions of the Office of New Drugs with regard to drugs classified oncology and radiopharmaceutical drugs.

(k–5) *Office of Product Safety.* Develops and conducts programs to reduce injuries, morbidity and mortality from accidental hazards through use of consumer products and from accidental poisoning by toxic substances. Conducts epidemiological studies of pesticides and their effects on man. Provides medical advice and guidance concerning the hazards of household products and the development of precautionary labeling. Evaluates pesticide registration applications concerning safety to humans and recommends labeling designed to reduce any potential health hazard. Provides a national network of poison control centers with toxicity and treatment information on toxic substances.

(i) *Division of Community Studies.* Determines, through epidemiological studies, the effects of pesticides on man. Sponsors and conducts studies on acute and chronic exposure to pesticides on a community-wide basis in order to determine the distribution and prevalence of any clinical or subclinical pathology, the type and quantity of exposure, and the factors giving rise to any relationship between the two in line with the concept of dose-response. Develops risk data to form a basis for a clearer understanding of the benefit versus risk equation of pesticides as related to human health. Collects, stores, and disseminates published data concerning the health effects of pesticides. Analyzes and reviews the raw data from the Community Studies and surveillance programs relating to human health effects of pesticides.

(ii) *Division of Hazardous Substances.* Collects and evaluates human and animal injury and toxicological data on household products. Conducts research on potentially hazardous products and on extent, causes and effects of poisoning and methods of prevention and treatment. Provides medical guidance in developing warning and first aid statements for hazardous chemicals; develops proper precautionary labeling of potentially hazardous substances and recommends banning of substances found too hazardous to market under any labeling.

(iii) *Division of Pesticide Registration.* Reviews all pesticide labels submitted for registration and advises the Pesticides Regulation Division, Department of Agriculture, concerning the human health aspects of pesticide registration applications. In cooperation with the Department of Agriculture, the Department of Interior, and other parts of CPE, evaluates pesticide registration applications with regard to safety to humans under pesticide use conditions as related to the community and the total environment. Recommends labeling designed to reduce the human health hazard that might result from the pesticides proposed use and their persistence in the environment.

(iv) *Division of Poison Control.* Provides a network of poison control centers with toxicity and treatment information on household products, medicines, and other toxic substances that may accidentally be ingested. Collects and issues clinical and statistical data on accidental ingestions of hazardous substances and deaths resulting therefrom. Supports research on poisoning treatment problems through contracts and grants. Stimulates education and training in methods and techniques of managing the total problem of accidental poisoning. Studies poisoning trends and stimulates the development of improved poison prevention and treatment methods. Investigates poisonings having major public health implications and initiates preventive measures.

(v) *Division of Safety Services.* Develops and conducts programs designed to reduce the injury hazards of consumer products, equipment, and appliances. Conducts surveillance studies to determine the extent, nature and effect of injuries due to consumer products. Studies and investigates deaths, injuries, and economic losses resulting from the accidental burning of products, fabrics, and related materials. Develops criteria for standards and codes for products designed to reduce their injury producing characteristics. Conducts research and administers research grants designed to uncover the reasons for product injuries and the product modifications considered necessary to reduce their injury producing characteristics. Plans, conducts and participates in projects and demonstrations for the purpose of developing and encouraging the application of new methods, techniques, and equipment for the prevention and control of injuries due to the use of consumer products.

(l) *Bureau of Science.* Plans, develops, and administers a program of scientific support for FDA regulatory activities. Develops scientific standards and conducts research relating to the composition, quality, and effects of foods, drugs, cosmetics, and pesticides. Provides expert advice and scientific services to other organizational components with respect to research, technological developments and the interpretation of scientific information. Designs and participates in collaborative studies to establish the reliability of new analytical methods. Initiates or participates in the formulation of regulatory programs. Performs analyses of regulatory samples as may be necessary to support FDA's compliance programs. Cooperates with Association of Official Analytical Chemists (AOAC) and similar scientific societies.

(l–1) *Division of Colors and Cosmetics.* Originates, plans, and conducts research to elucidate chemical composition of cosmetics, color additives, color additive diluents, and related commodities, and to identify compounds formed by reactions between colors and food, drug, and cosmetic materials. Devises new methods for analysis of cosmetics, colors, diluents, and related commodities; and investigates the mechanisms of the underlying chemical reactions. Administers the color additive listing and the color certification programs. Examines samples of cosmetics involved in consumer complaints.

(l–2) *Division of Food Chemistry and Technology.* Originates, plans, and conducts research to elucidate nature and properties of significant substances in foods and related commodities; develops analytical methodology as new hazards to man are uncovered. Devises new methods for analysis of foods and related commodities; investigates the mechanisms of the underlying chemical reactions. Originates and conducts a planned program, including appropriate laboratory investigations, for developing standards of identity, quality, and fill of container for food products; develops and processes proposals for regulations establishing such standards. Evaluates food additive petitions regarding their chemical identity and purity, stability, intended effect data, and methodology.

(l–3) *Division of Microbiology.* Originates, plans, and conducts research to determine nature, extent, and significance of microbial and other microscopic contaminants in foods and drugs; studies causes and develops methods for detection and prevention of food poisoning. Devises microanalytical and biological methods for the analysis of foods, drugs, and cosmetics. Operates the National Center for Microbiological Analysis.

(l–4) *Division of Nutrition.* Originates, plans, and conducts research to elucidate nature and properties of nutritionally significant substances in foods, drugs, and related commodities and factors affecting the action of these substances; to determine the effects of these substances on reproduction, growth, and development in biological and microbiological systems; and to study the metabolic fate of these substances and their interaction with other food components such as food additives and tissue residues of drugs. Devises new methods for the analysis of nutritionally significant substances in foods (including special dietary foods), drugs, and related commodities; investigates the mechanisms of the underlying biochemical reactions as potential approaches to the development of suitable analytical methods. Evaluates labeling of special dietary foods. Examines surveillance and compliance samples of foods and drugs for vitamins and other nutritional factors.

(l–5) *Division of Pesticides.* Devises new and improved methods for the analysis of pesticide residues in man and the environment; investigates the mechanisms of the underlying chemical reactions. Reviews petitions on pesticides with reference to the adequacy and reliability of information on chemical identity and purity, stability, residue data, intended effect data, and methodology. Provides assistance to other Federal agencies, State and local health departments in the form of technical training and epidemiological assistance, to enable them to respond to pesticide problems. Investigates the problems connected with the storage of pesticide residues in the general population and factors which contribute thereto. Investigates and evaluates health hazards associated with the use of economic poisons, particularly through the use of exposure studies and studies of pesticides poisoning cases.

(l–6) *Division of Pharmaceutical Sciences.* Originates, plans, and conducts research to elucidate nature and properties of significant substances in drugs. Operates the FDA system for continuous appraisal and improvement of current and proposed drug standards and specifications. Devises new chemical, physical, and biological methods for analysis of drugs in pharmaceutical preparations (including those subject to drug abuse) in feeds, in tissues, and in body fluids; investigates the mechanisms of the underlying chemical reactions. Operates the National Center for Drug Analysis. Operates the National Center for Antibiotics and Insulin Analysis. Cooperates with the Committees of Revision of the U.S. Pharmacopoeia (USP) and National Formulary (NF) to compose and assemble monographs for inclusion in official drug compendia.

(l–7) *Division of Pharmacology and Toxicology.* Originates, plans, and conducts research to elucidate the nature and properties of pharmacologically significant substances in foods, drugs, cosmetics, colorants, and related commodities; to determine the biochemical and other pesticide induced changes in biological systems, which may directly or indirectly lead to diseases in man; to investigate the pharmacological and toxicological effects of these substances in biological and microbiological systems; and to study the metabolic fate, the physiological and pathological response from such toxicants in various substrates. Conducts toxicological studies on various classes of pesticide chemicals,

cosmetics, food additives, colorants, and drugs to provide data for evaluation of new proposals and petitions for their industrial use as well as for the review of current tolerances, modified tolerances, and applications. Reviews petitions on food additives, color additives and pesticides with reference to toxicological safety and proposed use. Assists in the establishment of tolerances and standards of safety for proposed products. Devises and develops new methods for studying the biological activity of drugs, pesticide chemicals, colorants, cosmetics and food additives of toxicological significance.

(m) *Bureau of Veterinary Medicine.* Develops and recommends the veterinary medical policy of the Food and Drug Administration with respect to the safety and efficacy of veterinary preparations and devices. Evaluates proposed use of veterinary preparations for animal safety and efficacy. Coordinates the veterinary medical aspects of the Food and Drug Administration inspection and investigational programs and provides veterinary medical opinion in drug hearings and court cases.

(m–1) *Division of Veterinary Medical Review.* Maintains surveillance of veterinary preparations and devices to assure safety and efficacy. Evaluates drug experience reports, establishment inspection information, advertising, and other clinical or research data bearing on marketed veterinary preparations. Evaluates and recommends action on medicated feed applications for those preparations that have been approved for marketing. Recommends or supports regulatory and research activity. Prepares veterinary medical reports for the Post Office Department in support of Postal Laws and Regulations.

(m–2) *Division of Veterinary New Drugs.* Evaluates proposed new veterinary preparations for animal safety and efficacy. Evaluates proposed labels. Evaluates manufacturing facilities and procedures.

(m–3) *Division of Veterinary Research.* Conducts studies to evaluate the validity of data supporting the safety and efficacy of veterinary drugs. Conducts toxicity studies in large domestic animals. Studies the therapeutic properties of specific products and substances and the experimental reproduction of various disease conditions. Cooperates in developing actual evidence based on animal experimentation to support legal action. Develops methods for studying the effects of therapeutic agents on various disease conditions. Conducts experiments to develop information regarding food additive problems arising from the use of drugs in veterinary medicine.

(n) *Office of the Regional Food and Drug Director.* The Regional Food and Drug Director, under the general leadership of the Regional Assistant Administrator, CPE, directs and coordinates the programs of the Food and Drug Administration carried out through the Regional Office and the District Offices in the region. With the assistance of the Associate Regional Food and Drug Director, encourages improved state and local food and drug consumer protection programs and state and local participation in FDA cooperative efforts. Coordinates the provision of FDA assistance to states and localities in the event of a natural disaster or other emergency requiring FDA assistance. Provides a focal point of information for the HEW Regional Office concerning FDA programs. Coordinates FDA district programs with related operations of the HEW Regional Office. Serves as primary advisor and informant to the Regional Assistant Administrator, CPE, on all matters pertaining to activities of FDA in the Region.

(n–1) *District Offices.* Obtains compliance with laws and regulations enforced by FDA through the conduct of appropriate educational or enforcement activities. Initiates and conducts educational and voluntary compliance programs. Conducts investigations and inspections and analyzes samples of food, drugs, and other commodities. Conducts administrative hearings on alleged violations. Initiates appropriate enforcement action and recommends legal action to FDA headquarters, to the Office of General Counsel, DHEW, or to the concerned U.S. Attorney (where direct reference seizures are authorized) and assists in carrying out approved action. Provides analytical and inspectional support in programs for which FDA has responsibility.

(3) *Environmental Control Administration.* The mission of the Environmental Control Administration is to preserve and improve the physical environment in order to promote the health and welfare of man through programs designed to reduce levels of exposure of people to the hazards of improper housing and use of space, noise, rodent and insect vectors, occupational and community accidents, water borne disease, radiation, and waste accumulation. The Environmental Control Administration is administered by a Commissioner under the direction of the Administrator, Consumer Protection and Environmental Health Service.

(a) *Immediate Office of the Commissioner.* The Commissioner, with the assistance of the Deputy and Associate Commissioner, directs the activities of the Environmental Control Administration and coordinates activities in the Regional Offices. Advises the Administrator for Consumer Protection and Environmental Health Services on matters concerning environmental control activities. Directs multiple environmental health activities toward the common objective of improved health and well-being through environmental control. Coordinates intergovernmental relations and grants management. Participates in the development of CPE goals and objectives.

(b) *Office of Administration.* Under the direction of the Executive Officer, advises and assists the Commissioner on management implications of ECA plans and operations and provides administrative support throughout ECA by recommending policy and providing services in such administrative activities as personnel management, budgetary and fiscal management, procurement (including negotiated contracts), management analysis and systems development relating to management information and ADP clearances, material management, and organizational planning. Coordinates administrative activities with CPE.

(b–1) *Division of Administrative Operations.* Plans, directs, coordinates and evaluates administrative operations activities throughout the Administration, including contracting and other procurement of supplies, equipment and services; personal property and supply management, real property management, facilities requirements and operation, printing management, and general services. Develops and implements Administration-wide policies, procedures, and systems applicable to these activities and advises and assists the Executive Officer, ECA in the application of material management to the program operations of the Administration.

(b–2) *Division of Financial Management.* Provides advice and guidance to the Commissioner and Bureau officials with regard to budget and fiscal programs of the Administration. Prepares and advises on the justification of the ECA budget estimates and directs and coordinates implementation of policies, procedures and methods for the budgetary, financial analysis and accounting functions of ECA. Maintains accounting records and prepares financial reports and analyses for ECA funds. Prepares, audits and certifies vouchers for payment, except employee payrolls, and processes collection and deposits due to the United States. Participates in the Planning Programing Budgeting System.

(b–3) *Division of Personnel Management.* Plans, coordinates and administers the personnel management program for the ECA. Advises the Commissioner on matters relating to personnel management and provides personnel services throughout ECA in the area of policy development, reporting and evaluation, recruitment, staffing, salary administration, equal opportunity, outside activities, and other personnel functions.

(c) *Office of Program Development.* Under the direction of the Assistant Commissioner for Program Development, coordinates development of ECA strategy, including long and short range objectives and philosophy of operation. Conducts and coordinates ECA wide planning activities within CPE policy. Evaluates ECA program accomplishments and recommends appropriate adjustments. Provides focal point for ECA legislative planning and conducts or participates in special studies for program planning.

Coordinates ECA input into CPE P–P–B system and incorporates planning data into the budget process. Coordinates the review of contracts to assure conformance with ECA philosophy and program relevancy. Designs and promulgates data systems, utilizing ADP, for the management of program operations, in conjunction with the Office of Administration.

Participates in development of CPE Planning Strategy.

(d) *Office of Research and Development.* Under the direction of the Assistant Commissioner for Research and Development, advises and assists the Commissioner on research and development policy. Coordinates research and development efforts within the ECA, and assures compliance with basic research and development policies of the Service. Plans and develops across-the-board research programs which advance the mission of the ECA. Evaluates the adequacy on environmental health surveillance activities of the ECA. Provides broad scientific leadership to the ECA and establishes working relations with other counterparts within DHEW, with other Federal agencies and with research institutions to enable optimum utilization of their scientific capabilities by ECA.

(e) *Office of Public Information and Education.* Assists and advises the Commissioner on the ECA's public and technical information policies and provides interpretation of ECA programs to the public. Reports to Commissioner on public responses and attitudes toward ECA activities and coordinates the public information program of the ECA. Produces information materials and conducts liaison with higher echelons in the Department.

(f) *Office of Training and Manpower Development.* Under the direction of the Assistant Commissioner for Training and Manpower, plans, conducts and evaluates the Administration's manpower development and training activities. Advises the Commissioner on national environmental health manpower needs and on ECA policies, programs, and priorities to meet those needs. Directs a Training Institute to carry out all training functions and activities of the Administration. Administers career development and in-service training for ECA professional, technical and administrative personnel.

Serves as the focal point for ECA coordination with overall CPE efforts to improve the quality and quantity of the national pool of environmental health manpower and maintains liaison with other components of the Service, Department, and other Federal agencies, institutions and organizations having interests in environmental control manpower.

(g) *Bureau of Community Environmental Management.* Formulates and establishes criteria and recommends standards for sustaining man's health and well-being in the living environment of the community. Conducts and participates in studies and demonstrations to establish data for formulating criteria and standards. Conducts or participates in research, investigations and demonstrations to control environmental hazards to health. Collects epidemiological information and maintains an information resource of statistical data on environmental hazards to health. Plans, conducts and supports a program to control injuries caused by environmental situations, human behavior and community environments. Operates a cooperative program to control the health hazards related to interstate shipment of food and milk, and a regulatory program related to the prevention of communicable disease in interstate travel. Assists in the development of manpower and training needs for community environmental management.

(g–1) *Division of Environmental Improvement.* Provides technical assistance to public, nonprofit and other public service organizations and agencies on community environmental management, community sanitation, recreation sanitation and disease vector control. Conducts and supports research and development for the control of disease carrying insects and conducts selective control programs. Conducts and supports a program to reduce injuries caused by environmental situations, human behavior and community environments. Provides technical review of the pertinent portions of comprehensive health plans and project applications under the Partnership for Health Amendments, Public Law 89-749. Identifies the need for and assists in the development of informational material, demonstration tools, visual aids, training courses, field training and demonstrations in environmental management techniques.

(g–2) *Division of Planning and Standards.* Establishes criteria and recommends standards for health-related codes, ordinances, and community environmental planning. Conducts and supports research and development to derive data for the establishment of the criteria and standards of community environmental planning. Establishes and operates a national resource for statistical data on human ecology and environmental epidemiology and conducts epidemiological studies and surveys.

(g–3) *Division of Area Ecologic Centers.* Plans, develops and operates a series of Ecological Centers committed to providing research, development and technical assistance in community environmental management to the population served by the individual centers.

(g–4) *Division of Food, Milk, and Interstate Travel Sanitation.* Establishes criteria and recommends standards for the control of health hazards associated with food and milk and with interstate travel. Conducts and supports research and development, for the establishment of criteria and standards. Provides technical assistance to public and public service institutions and agencies for the control of hazards to health associated with interstate shipment of food and milk and with interstate travel. Carries out PHS responsibilities in the control of interstate transport of etiological agents and in the regulation of interstate travel sanitation under the Interstate Quarantine Regulations. Conducts the nationwide voluntary cooperative PHS interstate milk shipper certification program.

(h) *Bureau of Occupational Safety and Health.* Plans and conducts a comprehensive program of demonstration and technical assistance to governmental agencies, professional groups, universities, labor, industry, and health-related organizations for improvement of the health and safety of the working population. Conducts studies, field investigations, and demonstrations for the detection and control of occupational and occupation-related disease and injury. Collects and analyzes data on the health status of the working population and on industrial materials and processes currently in use, or which may be coming into use. Develops criteria for standards for safe and healthful working environment. Directs studies on the economic and social consequences of occupational and occupation-related diseases and injuries and promotes occupational safety and health programs in State and local agencies.

(h–1) *Division of Criteria and Standards Development.* Develops criteria for standards for the control of chemical, biological and physical hazards to the health and safety of the working population and initiates standard methodology and instrumentation for the analysis and control of such hazards. Conducts methodology studies for evaluating the varying capacity of workers to withstand such stresses and investigates the physiological responses to such stresses. Develops, improves and evaluates engineering method and instrumentation for occupational hazard control, making appropriate recommendations to the scientific community. Evaluates the toxicity, health and safety hazards of industrial substances, processes and agents as well as current research requirements and regulations. Reviews the existing scientific criteria for health and safety standards and identifies new problem areas in order to more adequately protect the health and safety of the employed population.

(h–2) *Division of Epidemiology and Special Services.* Conducts nationwide studies, surveys, and comprehensive analyses to determine the health status and incidence of disease and injury of the working population, and the effects resultant from work-related exposure as these occur both on and off the job. Defines the causal factors in the working environment leading to disease or injury. Coordinates ECA activities in Occupational Respiratory diseases.

(h–3) *Division of Occupational Injury and Disease Control.* Provides demonstrations, technical assistance, and consultation to governmental and other public and private agencies responsible for the control of occupational injury and disease and in identifying the sources of potential occupational disease outbreaks and industrial injuries. Provides leadership for positive action by State and local governments to adopt appropriate health and safety standards for the protection of employees with specific reference on those occupations identified as being highly hazardous.

(i) *Bureau of Radiological Health.* Carries out programs designed to reduce the exposure of man to hazardous ionizing and nonionizing radiation. Develops criteria and recommends standards for safe limits of radiation exposure. Develops methodology for controlling radiation exposures. Plans and conducts research on the health effects of radiation

exposure. Provides technical assistance and training to agencies having a radiological health program. Conducts an electronic product radiation control program, to protect the public health and safety, including the development and administration of performance standards to control the emission of electronic product radiation from electronic products and the undertaking by public and private organizations of research and investigation into the effects and control of such radiation emissions.

(i–1) *Division of Biological Effects.* Plans, conducts or supports research on the health effects of exposure to radiation, including emissions from electronic products. Provides technical support in experimental radiobiology to the Bureau.

(i–2) *Division of Electronic Products.* Develops and administers performance standards for radiation emissions from electronic products. Studies and evaluates emissions of and conditions of exposure to electronic product radiation and intense magnetic fields. Conducts or supports research, training, development and inspections to control and minimize such hazards. Tests and evaluates effectiveness of procedures and techniques for minimizing such exposures.

(i–3) *Division of Environmental Radiation.* Maintains a system of surveillance on the exposure of the population to ionizing and nonionizing radiation. Conducts or supports research studies and inspections to control hazards caused by exposure to radiation emissions from nuclear facilities, nuclear explosives or nuclear power sources and other applications of nuclear energy.

(i–4) *Division of Medical Radiation Exposure.* Formulates criteria and recommends standards for acceptable radiation exposure caused by the application of radiation in the field of health. Conducts and supports research studies and inspections to identify and correct defects in existing radiation health equipment, and establishes the criteria for corrective action. Conducts and supports research and development of more efficient equipment, materials and methodology.

(j) *Bureau of Solid Waste Management.* Plans, conducts and promotes research, investigations, experiments, demonstrations, surveys and studies relating to the conduct of solid waste programs and development and application of new and improved methods of solid waste storage, collection and disposal. Develops new and improved methods of reducing the amount of solid waste requiring ultimate disposal through reuse, recycling and source reduction and provides technical and financial assistance to appropriate agencies and organizations in planning, developing and conducting solid waste management programs. Collects and provides, through publications and special reports, the results and professional analyses of research and technically oriented activities being conducted in the field of solid waste management. Encourages cooperative activities in solid waste management by the States and local governments and encourages interstate, intrastate and regional solid waste planning.

(j–1) *Division of Research and Development.* Plans, conducts and evaluates research concerning solid waste systems and systems requirements, and new and improved means of managing as well as reducing the generation of solid waste. Plans, develops, and conducts municipal scale development projects to encourage the application of new and improved methods, techniques, and equipment for solid waste management. Manages grants in aid programs to combat solid waste problems facing the nation. Develops and applies operations research techniques to the management of solid waste systems and plans, conducts, and evaluates research in the socio-economics sciences and their relationship to solid wastes management systems.

(j–2) *Division of Technical Operations.* Encourages and supports the planning, development and conduct of solid waste management programs through consultation, information and technical assistance to public and private agencies, organizations and individuals and provides assistance in the economic, mathematical and computer sciences related to the interpretation of solid waste technology. Manages a program of planning grants to State and interstate agencies and fosters implementation. Collects and evaluates basic statistical data on a national basis relating to solid wastes and investigates, through special studies, specific problems and develops criteria for standards, model ordinances, and regulations.

(j–3) *Division of Demonstration Operations.* Plans, develops, conducts and evaluates through direct activities, grants and contracts, demonstrations to encourage the application of new and improved methods, techniques, and equipment for solid waste management.

(k) *Bureau of Water Hygiene.* Establishes criteria and recommends standards of water quality for the protection of the Nation's health. Establishes certain standards for potable water used by carriers subject to Federal Quarantine Regulations. Develops and conducts comprehensive studies to determine the safe criteria and minimum standards for water quality. Establishes and maintains a national register of Public Water Supply Systems. Develops and conducts a program of technical assistance to public and nonprofit institutions engaged in the operation of public water supply systems and use of water resources. Interprets the effects of water pollution upon man's health, enforces the Interstate Quarantine Regulations for water supplies for public carriers, and carries out the responsibilities of the Department as a member of the Federal Water Resources Council.

(k–1) *Division of Criteria and Standards.* Establishes health criteria and recommends standards for water use by defining recommended or maximum allowable concentrations of contaminants—biological, chemical, physical, and radiological. Establishes certain standards for potable water used by carriers subject to Federal Quarantine Regulations. Conducts and supports studies and research for the development of health criteria and standards for water use. Develops improved methods for the laboratory analysis of water to enable comparison to the established health criteria and standards.

(k–2) *Division of Epidemiology and Biometrics.* Plans and conducts surveys and analyses to detect deleterious health of contaminants in public water supplies. Establishes and maintains the national register of public water supplies. Maintains reference data on the health effects of contaminants in public water supplies and resources.

(k–3) *Division of Technical Operations.* Provides technical assistance on health aspects to public and non-profit institutions engaged in the operation of public water supplies and in the use of water resources. Enforces the Interstate Quarantine Regulations for water supplies for public carriers.

(l) *Office of the Regional Environmental Control Director.* The Regional Environmental Control Director, under the general leadership of the Regional Assistant Administrator, CPE, directs and coordinates all ECA operations in the region. Advises on the ECA regional needs, programs, and problems; participates in the planning and development of the over-all ECA regional mission. Directs the Regional Action Team in attaining regional objectives within the ECA regional mission. Maintains contact with official agencies, universities, and others receiving assistance from or conducting cooperative programs with ECA. Serves as primary advisor and informant to the Regional Assistant Administrator, CPE, on all matters pertaining to activities of ECA in the Region.

(4) *National Air Pollution Control Administration.* The mission of the National Air Polluition Control Administration is to conduct a national program for the prevention and control of air pollution to promote the public health and welfare. It encompasses programs for the establishment of Federal regulatory controls, conduct of research and development activities, provision of technical and financial assistance, and the development of air pollution manpower resources. It is administered by a Commissioner under the direction of the Administrator, Consumer Protection and Environmental Health Service.

(a) *Immediate Office of the Commissioner.* The Commissioner, with the assistance of the Deputy Commissioner, directs the activities of the National Air Pollution Control Administration. Advises the Administrator for Consumer Protection and Environmental Health Service on matters concerning the air pollution control effort. Participates in the development of CPE goals and objectives.

(b) *Office of the Associate Commissioner.* The Associate Commissioner represents the Commissioner at the Technical Center located in North Carolina. Oversees manpower development activities, technical information and publications, and research grants operations.

Insures the provision of adequate support activities for programs carried out at the Center and coordinates common servicing arrangements.

(c) *Office of Regional Activities.* Under the direction of the Assistant Commissioner for Regional Activities, conducts activities and provides recommendations associated with the designation of Air Quality Control Regions, as required by the Air Quality Act of 1967. Responsible for the guidance of the Administration's Regional Air Pollution Control Directors in the Department of Health, Education, and Welfare Regional Offices.

(d) *Office of Administration.* Under the direction of the Executive Officer, provides advice and assistance to the Commissioner on the development, coordination, direction, and assessment of management activities throughout the Administration. Provides services in the areas of finance, procurement, personnel, management systems, and facilities management. Maintains liaison with officials throughout CPE on management matters including ADP systems, management information systems, and communications networks. Provides financial data and systems development support to the program planning and budgeting system. Participates in the development of the Administration's goals and objectives.

(e) *Office of Program Development.* Under the direction of the Assistant Commissioner for Program Development, provides advice and assistance to the Commissioner on the development, coordination, and assessment of the Administration's programs. Coordinates program development with the Service and recommends Administration goals and objectives. Develops program planning policies and procedures, implements program planning and budgeting system, and reviews plans for consistency with goals. Evaluates progress against stated goals and provides analyses and special reports.

(f) *Office of Science and Technology.* Under the direction of the Assistant Commissioner for Science and Technology, advises the Commissioner on scientific matters which impact on policy and agency-level decisions. Recommends, stimulates, and coordinates the scientific and technological effort of the Administration. Provides leadership in shaping research and development objectives and in the appraisal and advancement of programs. Represents the Commissioner on appropriate research and development committees and coordinates activities in this area with the Service and other Government agencies.

(g) *Office of Standards and Compliance.* Under the direction of the Assistant Commissioner for Standards and Compliance, advises the Commissioner on regulations and compliance-oriented matters which impact on policy and operations. Evaluates and coordinates the overall compliance effort to assure the optimum use of Administration resources in conjunction with other Federal-State, and local resources. Counsels the Commissioner on courses of action necessary to rectify deficiencies in compliance programs. Determines impact on and/or need for major changes in Administration policy, objectives, and long-range program goals in the standards and compliance areas; coordinates these activities with the Service.

(h) *Office of Education and Information.* Conducts and coordinates Administration activities pertaining to public information and education. In coordination with CPE, formulates legislative proposals, assesses legislation, prepares testimony and provides technical evaluations on legislative matters. Assists professional and lay organizations in developing and carrying out activities designed to obtain better understanding of the air pollution problem.

(i) *Office of Manpower Development.* Provides for the assessment, development and conduct of activities necessary to meet the Nation's manpower requirements for trained air pollution personnel. Administers the training grants and fellowship programs. Operates a training institute for purposes of conducting air pollution technical instruction and assistance programs. Insures the conduct of career development and in-service training for NAPCA professional, technical and administrative personnel.

(j) *Bureau of Criteria and Standards.* Develops and conducts a comprehensive research program on the adverse effects of air pollution on the Nation's health and welfare. Maintains a national air quality surveillance, inventory emission, and air quality data program. Develops criteria and standards as required by law as necessary for the protection of the Nation's health and welfare.

(j–1) *Division of Air Quality and Emission Data.* Develops and maintains national programs for: the surveillance of air quality; the collection, storage, and evaluation of air quality data; and the inventory of air pollutant emissions and the methods utilized for their control. Provides leadership and coordination, as necessary, for State and local surveillance activities.

(j–2) *Division of Economic Effects Research.* Develops and conducts a comprehensive research program on: the effects of air pollution on vegetation, livestock, materials, and structures: and on other socioeconomic aspects of the problem in order to develop intelligence upon which criteria and standards may be based.

(j–3) *Division of Health Effects Research.* Develops and conducts a comprehensive research program on the health effects of air pollution to provide intelligence upon which air quality criteria and standards can be based for the protection of human health and well-being.

(k) *Bureau of Engineering and Physical Sciences.* Develops and conducts a comprehensive research and development program directed at the identification and control of pollutants discharged to the atmosphere from stationary sources and motor vehicles. Conducts research on the chemical, physical, and meteorological aspects of air pollution essential to the development of control technologies.

(k–1) *Division of Chemistry and Physics.* Develops and conducts a comprehensive program of research and development with special regard to chemical and physical properties of air pollutants, their reactions, and means of their measurement.

(k–2) *Division of Meteorology.* Develops and conducts research programs concerned with the meteorological aspects of air pollution including its transport and diffusion, forecasting, and climatology. Provides meteorological services to all other parts of the Administration as required.

(k–3) *Division of Motor Vehicle Research and Development.* Conducts an engineering research and development program for the determination of the causes, chemical composition, quantity, and means for control of motor vehicle contaminant emissions. Carries out research and evaluates advanced vehicular propulsion systems for air pollution control potential.

(k–4) *Division of Process Control Engineering.* Conducts an engineering research and development program directed toward identification and control of pollutants discharged to the atmosphere by industrial, commercial, or domestic processes. Designs, operates, and monitors contract research on prototype and demonstration control methods and equipment. Conducts field evaluations and stimulates demonstration studies designed to promote control of stationary sources of pollution.

(l) *Bureau of Abatement and Control.* Conducts technical and administrative activities necessary to implement Federal air pollution abatement responsibilities. Provides for the development and strengthening of State, regional, and local air pollution control programs through grants-in-aid and technical assistance to air pollution control programs and industry. Develops and administers a national motor vehicle pollution control program to insure adherence to Federal standards, the adequacy and effectiveness of control devices, systems, and inspection programs for the control of air pollution from automobiles.

(l–1) *Division of Abatement.* Conducts technical and administrative activities necessary to implement Federal air pollution abatement responsibilities, including interstate, intrastate, and international abatement actions, and control of air pollution from Federal facilities.

(l–2) *Division of Control Agency Development.* Provides grants-in-aid for control, survey, and demonstration activities. Provides technical assistance to public agencies and other organizations in the development, improvement, and strengthening of regional, State, and local air pollution control programs.

(l–3) *Division of Motor Vehicle Pollution Control.* Develops and administers a national program for certifying, testing, and evaluating methods and devices for the control of air pollution from automobiles. Conducts surveillance activities

to ascertain performance of automobile manufactures' control system in the hands of the public. Provides technical assistance to State agencies in the development of motor vehicle inspection and test programs. Maintains liaison and provides guidance to domestic and foreign vehicle manufacturers, national, and international organizations concerned with the control of motor vehicle pollution.

(m) *Office of Regional Air Pollution Control Director.* The Regional Air Pollution Control Director, under the general leadership of the Regional Assistant Administrator, CPE, directs and coordinates all Administration activities and provides direction to staff assigned to programs in the region. Advises on needs, programs, and problems in designation of Air Quality Control Regions. Maintains contact with official agencies, universities and others receiving assistance from or conducting cooperative programs with the Administation for the purpose of facilitating efficient accomplishment of joint program objectives. Serves as primary advisor and informant to the Regional Assistant Administrator, CPE, on all matters pertaining to activities of NAPCA in the Region.

SEC. 3–C *Order of Succession.* During the absence or disability of the Administrator or in the event of a vacancy in that office, the first official listed below who is available shall act as Administrator, except during a planned period of absence for which a different order has been specified under (2) below:

(1) (a) Deputy Administrator.

(b) Associate Administrator.

(c) Commissioner, Food and Drug Administration.

(d) Commissioner, Environmental Control Administration.

(e) Commissioner, National Air Pollution Control Administration.

(f) Assistant Administrator for Administration.

(g) Assistant Administrator for Program Development.

(h) Assistant Administrator for Research and Development.

(2) For a planned period of absence, the Administrator may specify a different order of succession.

SEC. 3–D *Delegations of Authority.* The Administrator shall continue to exercise all of the authorities given to him under the Redelegation by the Assistant Secretary for Health and Scientific Affairs of April 1, 1968 (33 F.R. 5426) as amended May 1, 1968 (33 F.R. 6891) and the Secretary's Reorganization Order of July 1, 1968 (33 F.R. 9909). Pending further actions by the Administrator, all delegations or redelegations to any officers or employees of the Administration which were in effect immediately prior to the effective date of this notice shall continue in effect in them or their successors.

Effective date. This amendment is effective on the date of its publication in the FEDERAL REGISTER.

WILBUR J. COHEN,
Secretary.

DECEMBER 14, 1968.

[F.R. Doc. 68–15192; Filed, Dec. 19, 1968; 8:48 a.m.]

Social and Rehabilitation Service

[Interim Policy Statement 24]

WORK EXPERIENCE AND TRAINING PROGRAMS UNDER TITLE V OF THE ECONOMIC OPPORTUNITY ACT

Notice of Interim Policies and Requirements

Notice is hereby given that the regulations set forth below (made pursuant to section 503(c) of title V, part A of the Economic Opportunity Act of 1964, 42 U.S.C. 2923(c)) prescribe certain interim policies and requirements, relating to exemption of the non-Federal share of projects under the work experience and training programs authorized under such part A and administered by the Social and Rehabilitation Service, which have been approved by the Administrator, Social and Rehabilitation Service, in a policy statement binding on States effective July 1, 1968, with respect to any such project approved on or after July 1, 1968. Interested persons who wish to submit comments, suggestions, or objections pertaining thereto, may present their views in writing to the Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, D.C. 20201, within a period of 30 days from the date of publication of these interim policies and requirements in the FEDERAL REGISTER. The final regulations will be codified in the Code of Federal Regulations.

Dated: November 21, 1968.

MARY E. SWITZER,
Administrator, Social and Rehabilitation Service.

Approved: December 14, 1968.

WILBUR J. COHEN,
Secretary.

Subject. Criteria for Exemption of Non-Federal Share of Projects Under Title V of the Economic Opportunity Act.

Purpose. Implementation of section 503(c) of the Economic Opportunity Act.

Regulations. Criteria for Exemption of Non-Federal Share of Projects Under Title V of the Economic Opportunity Act:

(1) Each State must make every effort to contribute its 20 percent share to any project which is approved after June 30, 1968. If a State makes every effort, provides as much as it can in cash and in kind, and still finds itself unable to meet its full obligation, it may request a waiver of the non-Federal share. Such request should be in the form of a letter accompanying the application for approval of the project and shall state clearly (a) the amount of non-Federal share which the State can provide and what part of such contribution is in kind, (b) that the State has made a reasonable effort to raise more non-Federal share and has been unsuccessful, and (c) the existence of any special factors or circumstances which might justify a reduction under (2)(d) below.

(2) The following criteria will be used to determine whether a State will be excused from providing all or part of its share:

(a) If the Title V project is going to phase into the WIN program within a period not to exceed 60 days from the date of approval, the State may be excused from its contribution entirely.

(b) Any State with an average per capita income of less than $2,300 may be excused from its share in Title V projects up to the full 20 percent.

Per capita personal incomes for the States may be based on data from the U.S. Department of Commerce Survey of Current Business, August 1967, vol. 47, no. 8 or any more recent reliable source of per capita income data available to the Department of Health, Education, and Welfare or submitted by the applicant agency.

(c) Any State with an average per capita income of between $2,300 and $2,950 may be excused from its share in Title V projects up to 10 percent of that share, and its remaining non-Federal share will be at least 10 percent.

(d) Any State not covered by (a) or (b) above may be excused from its share in a Title V project up to the full 20 percent to the extent justified by factors such as the following:

(i) How soon after the approval the project will be phased out.

(ii) The number of projects coming up for approval in the State after June 30, 1968.

(iii) The per capita income of the State in the case of a borderline situation under (b) or (c) above.

(iv) The per capita income of the county in which the project is to operate, in situations where the county is responsible in whole or in part for the non-Federal share.

(v) When the State's legislature meets and the status of the State's current appropriations.

[F.R. Doc. 68–15193; Filed, Dec. 19, 1968; 8:48 a.m.]

Social Security Administration

AUSTRALIA

Notice of Finding Regarding Foreign Social Insurance or Pension System

Section 202(t)(1) of the Social Security Act (42 U.S.C. 402(t)(1)) prohibits payment of monthly benefits to aliens, subject to the exceptions described in sections 202(t)(2) through 202(t)(5) of the Social Security Act (42 U.S.C. 402(t)(2) through 402(t)(5)), for any month after they have been outside the United States for 6 consecutive months.

Section 202(t)(2) of the Social Security Act (42 U.S.C. 402(t)(2)) provides that section 202(t)(1) shall not apply to any individual who is a citizen of a foreign country which the Secretary of Health, Education, and Welfare finds has in effect a social insurance or pension system which is of general application in such country and under which (A) periodic benefits, or the actuarial equivalent thereof, are paid on account of old age, retirement, or death, and (B) individuals who are citizens of the United States but not citizens of such foreign country and who qualify for such benefits are permitted to receive such benefits or the actuarial equivalent thereof while outside such foreign country without regard to the duration of the absence.

Pursuant to authority duly vested in him by the Secretary of Health, Education, and Welfare, the Commissioner of Social Security has approved a finding that Australia does not have a qualified social insurance or pension system, i.e., a system of general application that pays benefits without regard to the financial need of the beneficiary.

Accordingly, it is hereby determined and found that Australia does not have in effect a social insurance or pension system of general application which meets the requirements of section 202(t)(2)(A) of the Social Security Act (42 U.S.C. 402(t)(2)(A)).

The provisions of subparagraphs (A) and (B) of section 202(t)(4) of the Social Security Act (42 U.S.C. 402(t)(4) (A) and (B)) provide that section 202(t)(1) shall not be applicable to an individual who has 40 quarters of coverage under social security or who has resided in the United States for a period or periods aggregating 10 years of more. However, the provisions of subparagraphs (A) and (B) of section 202(t)(4) shall not apply to an individual who is a citizen of a foreign country that has in effect a social insurance or pension system which is of general application in such country and which satisfies the provisions of subparagraph (A) of section 202(t)(2) but not the provisions of subparagraph (B) of section 202(t)(2).

By virtue of the finding herein, the limitation on payment of monthly benefits to aliens embodied in section 202(t)(1) does not apply to citizens of Australia who have 40 quarters of coverage under social security or who have resided in the United States for a period or periods aggregating 10 years or more.

This augments the finding with respect to Australia published in the FEDERAL REGISTER of July 26, 1958 (23 F.R. 5674).

Dated: November 22, 1968.

[SEAL] ROBERT M. BALL,
Commissioner of Social Security.

Approved: December 14, 1968.

WILBUR J. COHEN,
Secretary of Health, Education, and Welfare.

[F.R. Doc. 68-15194; Filed, Dec. 19, 1968; 8:48 a.m.]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HUD REGIONAL OFFICES AND JURISDICTIONAL AREAS MODIFIED FOR URBAN PLANNING ASSISTANCE PROGRAM

List

The general jurisdictional area of each HUD Regional Office shown in column (3) hereunder is modified as shown in column (4) for metropolitan and regional planning under the urban planning assistance program authorized under section 701 of the Housing Act of 1954, as amended (40 U.S.C. 461):

(1) Region	(2) Address	(3) General jurisdictional area	(4) Addition to Region for metropolitan and regional planning under urban planning assistance program
I	26 Federal Plaza, New York, N.Y. 10007.	Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, Vermont.	Part of New Jersey in New York City metropolitan planning area. Region II modified.
II	Widener Bldg., 1339 Chestnut St., Philadelphia, Pa. 19107.	Delaware, District of Columbia, Maryland, New Jersey, Pennsylvania, Virginia, West Virginia.	Part of Ohio in Wheeling, W. Va., metropolitan planning area. Region IV modified. Part of Ohio in Steubenville-Weirton, metropolitan planning area. Region IV modified. Part of Kentucky and Ohio in Huntington, W. Va., metropolitan area. Regions III and IV modified.
III	Peachtree-Seventh Bldg., Atlanta, Ga. 30323.	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee.	Saint Tammany Parish, La. Region V modified. Part of Indiana in Louisville metropolitan planning area. Region IV modified.
IV	360 North Michigan Ave., Chicago, Ill. 60601.	Illinois, Indiana, Iowa, Michigan, Minnesota, Nebraska, North Dakota, Ohio, South Dakota, Wisconsin.	Part of Kentucky in Cincinnati metropolitan planning area. Region III modified.
V	Federal Office Bldg., 819 Taylor St., Fort Worth, Tex. 76102.	Arkansas, Colorado, Kansas, Louisiana, Missouri, New Mexico, Oklahoma, Texas.	Part of Illinois in St. Louis metropolitan planning area. Region IV modified. Part of Navajo Indian Reservation in Arizona and Utah. Region VI modified.
VI	450 Golden Gate Ave., Post Office Box 36003, San Francisco, Calif. 94102.	Alaska, Arizona, California, Guam, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington, Wyoming.	
VII	Post Office Box 3869, GPO, San Juan, P.R. 00936.	Puerto Rico and Virgin Islands.	

This document supersedes the following:

1. List of HUD Regional Offices and Jurisdictional Areas Modified for Urban Planning Assistance Program, 32 F.R. 14287, Oct. 14, 1967.
2. Delegation of Authority to Regional Administrator, Region V (Fort Worth)., with respect to Urban Planning Program—Portion of Navajo Indian Reservation in Arizona and Utah, 31 F.R. 4257, Mar. 10, 1966.

Effective date. This document shall be effective as of December 20, 1968.

ROBERT C. WOOD,
Acting Secretary of Housing and Urban Development.

[F.R. Doc. 68-15173; Filed, Dec. 19, 1968; 8:46 a.m.]

CIVIL AERONAUTICS BOARD

[Docket Nos. 20377, 20379; Order 68-12-66]

COMBS AIRWAYS, INC.

Order To Show Cause Regarding Establishment of Service Mail Rates

Issued under delegated authority on December 12, 1968.

On October 17, 1968, the Postmaster General filed notices of intent pursuant to 14 CFR, Part 298, petitioning the Board to establish for Combs Airways, Inc. (Combs), final service mail rates per great circle aircraft mile for the transportation of mail by aircraft as follows:

Docket	Between	Cents
20377	Billings and Helena, Mont.	27.94
20379	Kalispell and Billings, Mont. via Helena, Mont.	28.74

Combs is currently engaged in business as an air taxi operator under Part 298 of the Board's Economic Regulations. The Postmaster General states that Combs proposes to initiate service with Aero Commander, Model Turbo 500-B twin-engine aircraft and that the Department and the carrier agree that the above rates are fair and reasonable rates of compensation for the proposed services. The Postmaster General believes these services will meet postal needs in these markets.

By Order 68-12-64, December 12, 1968, in this docket the Board determined to approve the notice of intent thereby permitting it to become effective pursuant to 14 CFR 298.24(d). Therefore, Combs may provide the proposed air transportation of mail for the period ending June 30, 1969. Since no mail rates are presently in effect for this carrier in these markets, it is necessary and in the public interest to fix, determine, and establish

the fair and reasonable rates of compensation to be paid to Combs by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notices of intent and other matters officially noticed, it is proposed to issue an order[1] to include the following findings and conclusions:

The fair and reasonable final service mail rates per great circle aircraft mile to be paid to Combs Airways, Inc., entirely by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, shall be as follows:

Docket	Between	Cents
20377	Billings and Helena, Mont.	27.94
20379	Kalispell and Billings, Mont. via Helena, Mont.	28.74

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR, Part 302, 14 CFR, Part 298, and 14 CFR 385.14(f),

It is ordered, That:

1. Combs Airways, Inc., the Postmaster General, Northwest Airlines, Inc., and Western Air Lines, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rates specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rates of compensation to be paid to Combs Airways, Inc.;

2. Further procedures herein shall be in accordance with 14 CFR, Part 302, and notice of any objection to the rates or to the other findings and conclusions proposed herein, shall be filed within ten days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

3. If notice of objection is not filed within 30 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rates specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rates shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served upon Combs Airways, Inc., the Postmaster General, Northwest Airlines, Inc., and Western Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 68-15212; Filed, Dec. 19, 1968; 8:49 a.m.]

[Docket No. 20491]

COMPANIA AEROCOSTA LTDA.

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 December 23, 1968, at 10 a.m., e.s.t., in Room 726, 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 various 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., December 16, 1968.

[SEAL] EDWARD T. STODOLA,
Hearing Examiner.

[F.R. Doc. 68-15213; Filed, Dec. 19, 1968; 8:49 a.m.]

[Docket No. 20559; Order 68-12-79]

LOS ANGELES AIRWAYS, INC., AND CHICAGO HELICOPTER AIRWAYS, INC.

Order To Show Cause Regarding Amendment of Certificates of Public Convenience and Necessity

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 13th day of December 1968.

For the reasons set forth below, the Board has decided to propose by show-cause procedure amendment of the certificates of Los Angeles Airways, Inc. (LAA), for Route 84 and of Chicago Helicopter Airways, Inc. (CHA), for Route 96, so as to delete the equipment restrictions now contained therein, in order to permit each carrier to conduct its authorized operations utilizing either fixed- or rotary-wing aircraft. In addition, we are proposing the amendment of Order E-22798, October 22, 1965, and Orders E-20258-9, December 12, 1963, as amended by Order E-22963, December 3, 1965, by which LAA and CHA, respectively, were each granted temporary area exemption authority, subject to identical equipment restrictions.[1]

LAA, CHA, and San Francisco & Oakland Helicopter Airlines, Inc. (SFOH), are the only certificated helicopter operators whose authority remains subject to a restriction on the type of equipment which each may utilize.[2] Such restrictions were originally imposed by the Board for the purpose of further defining the unique services contemplated in each of the helicopter service certification proceedings, at a time when only rotary-wing (or "direct-lift") aircraft were capable of performing the type of city-center air service which the helicopter operations were intended to achieve. Subsequent technological advancements in the development of fixed-wing aircraft, and the continuing economic difficulties experienced by the scheduled helicopter operators, stemming in part from the high operating costs of present-generation rotary-winged aircraft, have since rendered such limitations on the carriers' choice of equipment increasingly anachronistic.

Such considerations impelled the Board to delete the rotary-wing restriction from New York Airways' certificate when it renewed that carrier's authority in 1960.[3] The Board concluded that there appeared to be no sound reason for precluding NYA from taking advantage of technological advances in aircraft design, if the service then being offered with rotary-wing aircraft could be rendered with greater efficiency, dependability, and economy with other types of aircraft.

Similarly, in the recently decided Washington/Baltimore Helicopter Service Investigation (Orders 68-11-71 and 68-11-72, Nov. 18, 1968), the Board imposed no equipment restriction on the successful applicant (Washington Airways, Inc.) in the interest of allowing optimum freedom to the carrier's management to select aircraft best suited for use in both present and future operations. Each carrier's freedom is, of course, restricted by the physical limitations imposed by given landing sites, and by the necessity of providing service which is consistent with the type of service which each has been certificated to provide.

LAA has been utilizing fixed-wing Twin-Otter aircraft in providing scheduled service between San Bernardino, Calif., the Ontario International Airport,

[1] As this order to show cause is not a final action but merely affords interested persons an opportunity to be heard on the matters herein proposed, it is not regarded as subject to the review provisions of Part 385 (14 CFR, Part 385). These provisions for Board review will be applicable to final action taken by the staff under authority delegated in § 385.14(g).

[1] LAA's certificate for Route 84, and its area exemption authorization in Order E-22798, each restrict the carrier to the use of "direct-lift" aircraft. CHA's certificate for Route 96 is subject to a restriction in condition (4) thereof, limiting the holder to the use of "rotary-wing aircraft," and its exemption authorization granted by Orders E-20258-9 specifies that the air transportation authorized thereby shall be conducted "with rotary-wing aircraft."

[2] SFOH's certificate for route 103 specifies that the authorized service is to be provided "utilizing rotary-wing aircraft." Upon application by that carrier, the Board is separately and concurrently proposing deletion of SFOH's equipment restriction by show-cause procedure.

[3] New York Airways Renewal Case, 30 C.A.B. 898 (1960).

and Los Angeles International Airport, pursuant to a wet-lease agreement entered into between LAA and Aero Commuter, Inc., and Catalina Airlines, Inc., which was approved by the Board in Order 68–9–43, September 11, 1968.[4] In that order, the Board also granted an exemption to LAA to the extent necessary to permit the operation of fixed-wing aircraft under the wet-lease agreement, in view of the existence of "some doubt" as to whether the Twin-Otter fixed-wing aircraft would fall into the category of "direct-lift" equipment.[5]

Upon consideration of the foregoing circumstances, we tentatively find and conclude that the public convenience and necessity require amendment of the certificates and exemption authority held by LAA and CHA so as to authorize each carrier to utilize any type of aircraft in the performance of its authorized service, by deleting the equipment restrictions presently embodied in the authority of each carrier.

In reaching the foregoing conclusion, we tentatively find that the proposed amendments are consonant with the underlying policy considerations which led the Board to delete, or refrain from imposing, similar equipment restrictions in the certificates of other helicopter operators. We further tentatively find that the policy considerations present in the cases referred to above are equally applicable in the case of LAA and CHA, and that, by affording each carrier maximum flexibility in selecting the aircraft which it deems suitable for performing its authorized service, each carrier's progress toward financial stability may be accelerated. Finally, we believe that such freedom of equipment choice will accrue to the benefit of the traveling public, by permitting each of these carriers to avail itself of the most efficient, dependable, and economical aircraft which may be suitable for use in its present and future operations.

Interested persons will be given 20 days from the service date of this order in which to show cause why the tentative findings and conclusions reached herein should not be made final. We expect that any persons objecting to the Board's tentative findings and conclusions will support such objections with substantial arguments of law, legal precedent, and facts, accompanied by a documented economic analysis indicating the full alleged legal and economic impact of the Board's proposed action upon such persons.

Accordingly, it is ordered, That:

1. All interested persons are directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated herein and

(a) Amending the certificate of Los Angeles Airways, Inc. for Route 84 by deleting therefrom the words "utilizing direct-lift aircraft,"; amending Order E–22798, October 22, 1965, by deleting therefrom the words "with direct-lift aircraft," appearing in ordering paragraph (1) thereof; and

(b) Amending the certificate of Chicago Helicopter Airways, Inc., for Route 96 by deleting condition (4) therefrom in its entirety; and amending Orders E–20258–9, December 12, 1963, by deleting therefrom the words "with rotary-wing aircraft" appearing in ordering paragraph (1) thereof;

2. Any interested persons having objection to the issuance of an order making final the proposed findings, conclusions, certificate and exemption amendments set forth herein shall, within twenty (20) days after service of a copy of this order, file with the Board and serve upon all persons made parties to this proceeding a statement of objections together with a summary of testimony, statistical data, and other evidence expected to be relied upon in support of the stated objections; [6]

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised by the objections before further action is taken by the Board;

4. In the event that no objections are filed, all further procedural steps will be deemed to have been waived, and the case will be submitted to the Board for final action; and

5. A copy of this order shall be served upon: Los Angeles Airways, Inc.; Chicago Helicopter Airways, Inc.; all domestic certificated air carriers authorized to serve Los Angeles, Ontario, Long Beach, San Bernardino, Burbank, Riverside, Santa Ana-Laguna Beach and Oxnard-Ventura, Calif., and Chicago, Ill.; Governor, State of California; Governor, State of Illinois; and the mayors of: Chicago and Winnetka, Ill.; Gary, Ind.; Los Angeles, Oxnard, Ventura, Van Nuys, Santa Monica, San Fernando, North Hollywood, Glendale, Alhambra, Maywood, Downey, Lynwood, Whittier, Monrovia, Azusa, Pomona, Ontario, Fontana, San Bernardino, Riverside, Corona, Anaheim, Santa Ana, Orange, and Long Beach, Calif.

A copy of this order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 68–15214; Filed, Dec. 19, 1968; 8:49 a.m.]

[4] Modified and extended by Orders 68–10–54 and 68–10–140, Oct. 11 and 25, 1968.

[5] CHA has been suspended at its own request since December 1965, and is not presently operating any scheduled service. CHA's application for renewal of its certificate authority is now pending in Docket 17401.

[6] All motions and/or petitions for reconsideration shall be filed within the period allowed for filing objections and no further such motions, requests, or petitions for reconsideration of this order will be entertained.

[Docket No. 20176; Order 68–12–87]

PIEDMONT AVIATION, INC.

Order To Show Cause Regarding Amendment of Certificate of Public Convenience and Necessity

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 16th day of December 1968.

On September 3, 1968, Piedmont Aviation, Inc. (Piedmont), filed an application requesting an amendment of its certificate of public convenience and necessity for Route 87 to extend segment 5(b)(i) beyond its present western terminus, Knoxville, Tenn., to the intermediate point London-Corbin, Ky., and to the the terminal point Louisville, Ky., and to amend restriction 12 [1] to permit nonstop service between Knoxville, Tenn. and Louisville, Ky. The applicant contemporaneously filed a motion for an order to show cause.

In support of its request, Piedmont alleges, in pertinent part, that Piedmont presently serves London-Corbin with two daily round-trip flights the itinerary of which is Louisville-London/Corbin-Bristol, Va.-Tenn./Kingsport/Johnson City, Tenn.; that in view of the limited traffic at London-Corbin,[2] Piedmont proposes to divert one of its round-trip Louisville-London/Corbin-Tri-Cities flights to a Louisville-London/Corbin-Knoxville flight; that London-Corbin, until recently a depressed area, is engaged in a vigorous program of industrial and economic revitalization; that air service for London-Corbin to its strong communities of interest in the south is essential to its program of self-help and of government aid; that Knoxville, a presently weak terminal for Piedmont,[3] would be considerably strengthened by the additional support of through traffic to and from Louisville and London-Corbin; that Piedmont would achieve gross revenues of nearly $500,000 during the first year of operation of the proposed services; and that there would be no substantial diversion of revenues from any other carrier.

The London-Corbin Air Board, the Louisville and Jefferson County Air Board, and the Greenville-Spartanburg Airport Commission filed answers in support of Piedmont's application. Delta Air Lines, Inc., the only carrier to file an answer, did not object to the grant of the proposed services provided that all the authority awarded is subsidy-ineligible.

Upon consideration of the foregoing, we have decided to grant the motion of Piedmont for an order to show cause insofar as it requests the redesignation of Knoxville as an intermediate point and the addition of London-Corbin as an intermediate point and Louisville as a terminal point on segment 5(b)(i). We tentatively find and conclude that the public convenience and necessity require the above-described amendment of Piedmont's certificate for Route 87 and the amendment of Appendix A of Order 68–11–74, November 18, 1968, to make the

[1] Restriction 12 was formerly restriction 13 prior to Piedmont's certificate realignment. Order 68–11–74, Nov. 18, 1968.

[2] London-Corbin enplaned 9.7 passengers per day in 1967. (Piedmont Company Records.)

[3] With Knoxville being the western terminus on segments 4 and 5, and restriction 10 of Piedmont's certificate for Route 87 prohibiting single-plane service between Knoxville and Atlanta, Piedmont, for all practical purposes, may provide only eastbound service from Knoxville.

Knoxville-Louisville nonstop flights subsidy-ineligible.[4]

In support of our ultimate finding, we tentatively conclude as follows: The conversion of Knoxville to an intermediate point will strengthen this station since through traffic will flow northward to Louisville and eastward to other major points presently on segment 5(b)(i); the sharing of the burden of overhead costs now allocated to Piedmont's stub-end operations at Knoxville by these additional flights will enhance the financial posture of the applicant; Louisville and Knoxville will both receive new and improved service, including the first competitive service between the two points;[5] London-Corbin will receive its first direct service to southern points with which it has considerable communities of interest through the Knoxville gateway; and since the one-stop flights which presently serve London-Corbin are subsidy-eligible and the proposed one-stop flights to London-Corbin via Knoxville are merely substitutes for the former, any new London-Corbin flights should also be subsidy-eligible without the Board increasing Piedmont's new subsidy ceiling level.[6]

Furthermore, we tentatively conclude that the proposed services will satisfy restriction 3 of Piedmont's certificate which requires that London-Corbin receive two daily round-trip flights before this point may be overflown on nonstop Louisville-Tri-Cities flights or proposed Louisville-Knoxville flights.[7]

Interested persons will be given 20 days following service of this order to show cause why the tentative findings and conclusions set forth herein should not be made final. We expect such persons to direct their objections, if any, to specific markets and to support such objections with detailed answers, specifically setting forth the tentative findings and conclusions to which objection is taken. Such objections should be accompanied by arguments of fact or law and should be supported by legal precedent or detailed economic analysis. If an evidentiary hearing is requested, the objector should state in detail why such a hearing is considered necessary and what relevant and material facts he would expect to establish through such a hearing. General, vague, or unsupported objections will not be entertained.

Accordingly, it is ordered, That:

1. All interested persons are directed to show cause on or before January 6, 1969, why the Board should not issue an order making final the tentative findings and conclusions stated herein and amending Piedmont's certificate of public convenience and necessity for Route 87 so as to redesignate Knoxville as an intermediate point and extend segment 5(b)(i) to London-Corbin as an intermediate point and to Louisville as a terminal point and to amend Appendix A of Order 68-11-74, November 18, 1968, to make the Knoxville-Louisville nonstop flights subsidy-ineligible;

2. Any interested person having objection to the issuance of an order making final any of the proposed findings, conclusions, or certificate amendments set forth herein shall, within 20 days after service of a copy of this order, file with the Board and serve upon all persons made parties to this proceeding a statement of objections together with a summary of testimony, statistical data, and other evidence expected to be relied upon to support the stated objections;[8]

3. If timely and properly supported objections are filed, full consideration will be accorded the matters and issues raised by the objections before further action is taken by the Board;

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth herein; and

5. A copy of this order shall be served upon Allegheny Airlines, Inc., American Airlines, Inc., Braniff Airways, Inc., Continental Air Lines, Inc., Delta Air Lines, Inc., Eastern Air Lines, Inc., Frontier Airlines, Inc., Mohawk Airlines, Inc., National Airlines, Inc., North Central Airlines, Inc., Northeast Airlines, Inc., Northwest Airlines, Inc., Ozark Air Lines, Inc., Piedmont Aviation, Inc., Southern Airways, Inc., Trans World Airlines, Inc., United Air Lines, Inc., Western Air Lines, Inc., Greenville-Spartanburg Airport Commission, City of Knoxville Chamber of Commerce, London-Corbin Air Board, Louisville and Jefferson County Air Board, and City of Louisville Chamber of Commerce.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 68-15215; Filed, Dec. 19, 1968; 8:50 a.m.]

[4] We will not, however, amend restriction 12 to include nonstop Knoxville-Louisville service since such an amendment would permit the applicant to operate Knoxville-Louisville nonstop service without satisfying restriction 3 which requires two daily round trips to each intermediate point, in this situation London-Corbin, before the point may be overflown on additional flights.

[5] The O&D for 1967 in the Louisville-Knoxville market is 7,250 and Piedmont forecasts an O&D of 10,332 for 1969 with a stimulation factor of 5 percent, and an annual growth rate of 16.5 percent.

[6] However, we note that Piedmont is presently operating at its new subsidy ceiling level. Order 68-11-75, Nov. 18, 1968.

[7] The Board has stated that such operational flexibility is authorized * * * where a pair of points is common to two segments and the carrier schedules two flights between them (regardless of the segment origin or termination of such flights) * * *" Southeastern Area Local Service Case, 30 C.A.B. 1441, 1447 (1960) (supplemental opinion and order on reconsideration). See, also, Winona Enforcement Case, 38 C.A.B. 885 (1963).

[8] All motions and/or petitions for reconsideration shall be filed within the period allowed for filing of objections, and no further such motions, requests, or petitions for reconsideration of this order will be entertained.

[Docket Nos. 19936, 19937; Order 68-12-78]

SAN FRANCISCO AND OAKLAND HELICOPTER AIRLINES, INC.

Order To Show Cause Regarding Amendment of Certificate of Public Convenience and Necessity and Regarding Exemption

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 13th day of December 1968.

Application of San Francisco & Oakland Helicopter Airlines, Inc. for an amendment of its certificate of public convenience and necessity, Docket 19936; and for an exemption pursuant to section 416(b) of the Federal Aviation Act of 1958, as amended, and petition for order to show cause, Docket 19937.

On June 6, 1968, San Francisco & Oakland Helicopter Airlines, Inc. (SFOH), filed an application requesting an amendment of its certificate of public convenience and necessity for Route 103 to delete therefrom the words "utilizing rotary-wing aircraft." On the same date SFOH filed an application for an area exemption "similar to those presently held by other helicopter carriers,"[1] and a petition for an order to show cause why SFOH's certificate should not be amended to authorize use of VTOL/STOL type aircraft for community center and interairport service.

In support of its petition for a show cause order, SFOH contends that the same policy considerations that governed the Board's action in removing the rotary-wing limitation from New York Airways' certificate apply with equal force to SFOH;[2] that SFOH is considering the feasibility of service with the DHC-6 Twin Otter, a STOL-type aircraft that has a 19-passenger capacity, seat mile costs equal to about one-half the seat mile cost of the 26-seat S-61 rotary-wing aircraft,[3] and which can be used at five of the nine points it now serves; and that there will be no competitive impact on other air carriers because a certificate restriction limiting SFOH's operations to community center and interairport services will insure that SFOH will continue to perform the type of service for which it was certificated while at the same time the carrier will have flexibility to take "immediate advantage of the most advanced technological developments in VTOL/STOL aircraft."

The National Air Taxi Conference (NATC) filed an answer to SFOH which states, in substance, that it does not oppose SFOH's application if appropriate action is taken by the Board to make an ad hoc ruling that air taxi operators would not be prohibited from engaging

[1] The application for exemption is being dealt with separately and concurrently.

[2] New York Airways Renewal Case, 30 C.A.B. 898 (1960).

[3] SFOH now operates S-61 and S-62 type aircraft.

in air transportation in SFOH's service area.[4]

SFOH filed a reply to NATC's answer in which it requests the Board to either strike NATC's answer for failure to comply with Part 263 of the Board's economic regulations, or deny NATC's request to render inapplicable the pertinent provisions of Part 298 that relate to route protection for certificated helicopter air carriers.

NATC filed a motion pursuant to Rule 4(f) of the Board's rules of practice for leave to file an answer to SFOH's reply stating in support thereof that the reply was in part a motion to strike to which NATC should be allowed to respond pursuant to Rule 18(c) of the rules of practice.

Upon consideration of the foregoing, the Board has decided to grant SFOH's petition for a show cause order. NATC's motion to file an unauthorized document will be granted for good cause shown.

As the Board stated in the New York Airways Renewal Case,[5] the provision requiring helicopter carriers to provide service with rotary-wing aircraft was not imposed for the purpose of limiting the carrier's choice of equipment. Rather the limitation was employed to more accurately describe the type of service that this class of carriers was being certificated to provide. As technological developments of VTOL/STOL aircraft progressed, the Board recognized that advances in the state of the art did not technically fall within the definition of rotary-wing aircraft. If the particular type of service for which SFOH was certificated can be provided with other than rotary-wing aircraft, there is no reason why the carrier should be precluded from taking advantage of the technological advancements in aircraft design. But we wish to emphasize that in removing the rotary-wing limitation we fully expect that SFOH will continue to provide interairport shuttle service and suburban airport feeder service that is designed specifically to expedite the handling of terminal traffic within its service area in the San Francisco Bay area. In this connection, we see no occasion to adopt SFOH's proposed condition, because it is clear that the character of SFOH's service will remain unchanged regardless of the type of aircraft the carrier elects to use.

In reaching the conclusion that SFOH's certificate should be amended to provide for maximum flexibility in equipment selection, we not only considered the underlying policy that prompted the Board to amend the certificates of the other helicopter air carriers, but we are also mindful of SFOH's future economic stability. SFOH's financial history since its certification discloses that the carrier has sustained continuing operating losses. Like the other certificated helicopter carriers, SFOH has been forced to turn to the fixed-wing industry for financial assistance. In the light of this economic background, the Board believes that SFOH should be afforded every opportunity to select aircraft suitable for its particular type of service that may be capable of assisting the carrier to achieve improved financial results.

Interested persons will be given twenty days from the service date of this order to show cause why the tentative findings and conclusions reached herein should not be made final. We fully expect that any persons objecting to the Board's tentative findings and conclusions will support such objections with substantial arguments of law, legal precedent, and facts accompanied by a document economic analysis indicating the full legal and economic impact of the Board's proposed action upon such persons.

The controversy raised by SFOH and NATC regarding the applicability of Part 263 to NATC is discussed further in the accompanying order relating to SFOH's application for an area exemption. For present purposes, we find that NATC's filings, insofar as they relate to removal of SFOH's equipment restriction, may properly be considered on the merits.

Accordingly, it is ordered, That:

1. All interested persons are directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated herein and amending SFOH's certificate of public convenience and necessity for Route 103 by deleting therefrom the words "utilizing rotary-wing aircraft";

2. Any interested persons having objection to the issuance of an order making final the proposed findings, conclusions, and certificate amendments set forth herein shall, within 20 days after service of a copy of this order, file with the Board and serve upon all persons made parties to this proceeding a statement of objections together with a summary of testimony, statistical data, and other evidence expected to be relied upon to support the stated objections; [6]

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised by the objections before further action is taken by the Board;

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived, and the case will be submitted to the Board for final action.

5. NATC's motion to file an unauthorized document be and it hereby is granted; and

6. A copy of this order shall be served upon: San Francisco & Oakland Helicopter Airlines, Inc.; National Air Taxi Conference; all domestic certificated air carriers authorized to serve San Francisco, Oakland, and San Jose, Calif.; Governor, State of California; Mayor, City of Berkeley; Mayor, City of Corte Madera; Mayor, City of Oakland; Mayor, City of Palo Alto; Mayor, City of San Francisco; Mayor, City of San Jose; Mayor, City of San Rafael; Mayor, City of Sunnyvale; and Mayor, City of Walnut Creek, Calif.

A copy of this order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 68-15216; Filed, Dec. 19, 1968; 8:50 a.m.]

[4] Part 298 of the Board's economic regulations prohibits air taxi operators from providing air transportation between any points where scheduled helicopter, STOL or VTOL service is provided by a holder of a certificate of public convenience and necessity.

[5] 30 C.A.B. 898, 902 (1960).

[6] All motions and/or petitions for reconsideration shall be filed within the period allowed for filing objections and no further such motions, requests, or petitions for reconsideration of this order will be entertained.

[Docket No. 17619]

TWIN CITIES-CALIFORNIA SERVICE INVESTIGATION

Notice 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 is assigned to be heard on January 8, 1969, at 10 a.m., e.s.t., in Room 1027, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., before the Board.

Dated at Washington, D.C., December 16, 1968.

[SEAL] THOMAS L. WRENN,
Chief Examiner.

[F.R. Doc. 68-15217; Filed, Dec. 19, 1968; 8:50 a.m.]

SECURITIES AND EXCHANGE COMMISSION

MOONEY AIRCRAFT, INC.

Order Suspending Trading

DECEMBER 16, 1968.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Mooney Aircraft, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period December 17, 1968, through December 26, 1968, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 68-15162; Filed, Dec. 19, 1968; 8:46 a.m.]

FEDERAL POWER COMMISSION

[Docket Nos. G–8733, etc.]

SINCLAIR OIL CORP. ET AL.

Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

DECEMBER 12, 1968.

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 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 January 8, 1969.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given: *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 July 1, 1967, 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 of 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.

GORDON M. GRANT,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
G–8733 C 11–22–68	Sinclair Oil Corp.,[1] Post Office Box 521, Tulsa, Okla. 74102.	Northern Natural Gas Co., Blinebry Pool and Tubb Pool Fields, Lea County, N. Mex.	16.3	14.65
G–11181 C 11–18–68	Gas Gathering Corp., Post Office Box 519, Hammond, La. 70401.	Transcontinental Gas Pipe Line Corp., Happytown Field, St. Martin Parish, La.	22.0	15.025
G–11181 C 11–18–68	do	Transcontinental Gas Pipe Line, Corp., Big Alabama Bayou Field, Iberville Parish, La.	22.0	15.025
G–11861 D 11–25–68	Mobil Oil Corp. (Operator) et al., Post Office Box 1774, Houston, Tex. 77001.	Cities Service Gas Co., Hardtner Field, Barber County, Kans.	Depleted	.....
G–18711 E 11–15–68	O. C. Holt (successor to Keating-Parker Drilling Co. (Operator) et al.) Route 1, Box 57, Spearman, Tex. 79081.	Northern Natural Gas Co., North Hutchinson Field, Hutchinson County, Tex.	15.0	14.65
G–20250 D 10 28–68	Cabot Corp. (SW), Post Office Box 1101, Pampa, Tex. 79065 (partial abandonment).	Colorado Interstate Gas Co., Keyes Field, Cimarron County, Okla.	[2]	.....
CI61–659 C 11–21–68	Mobil Oil Corp	Transcontinental Gas Pipe Line Corp., Lucy Field, St. Charles Parish, La.	19.5	15.025
CI61–691 D 11–19–68	Sinclair Oil Corp. (Operator) et al	Michigan Wisconsin Pipe Line Co., Woodward Area, Dewey and Woodward Counties, Okla.	[3]	.....
CI61–691 C 11–21–68	do	Michigan Wisconsin Pipe Line Co., Northeast Cedardale Field, Major County, Okla.	[4]15.0	14.65
CI61–1379 E 11–15–68	Car-Tex Producing Co. (successor to Rio Sabine, Inc.) Post Office Box 555, Carthage, Tex. 75633.	Arkansas Louisiana Gas Co., Carthage Field, Panola and Harrison Counties, Tex.	12.4727	14.65
CI61–1767 E 11–14–68	Elton A. Bayer (successor to Paul H. Ash and M. D. Carey, Partners, d.b.a. A. & C. Oil and Gas Co.) Post Office Box 519, Sioux Falls, S. Dak. 57101.	Equitable Gas Co., acreage in Lewis County, W. Va.	25.0	15.325
CI63–152 E 11–8–68	Whitestone Petroleum Corp. (successor to Whitehall Oil Co., Inc.) 300 Pere Marquette Bldg., New Orleans, La. 70112.	Cities Service Gas Co., Chimney Creek Field, Woodward County, Okla.	[5]17.0	14.65
CI63–153 E 11–8–68	do	Panhandle Eastern Pipe Line Co., Blakemore Area, Beaver County, Okla.	17.0	14.65
CI63–464 (G–10634) C 11–14–68 [7]	Mobil Oil Corp	Transcontinental Gas Pipe Line Corp., La Gloria Field, Jim Wells, and Brooks Counties, Tex.	[8]11.0 [9]12.0 [10]13.0	14.65
CI63–569 E 11–25–68 [11]	Brammer Engineering, Inc., agent (Operator) et al. (successor to John Franks (Operator) et al.) 1009 Petroleum Tower, Shreveport, La. 71101.	Texas Gas Transmission Corp., Terryville Field, Lincoln Parish, La.	18.25	15.025
CI64–1130 E 11–21–68	Getty Oil Co. (successor to Atlantic Richfield Co., et al.) Post Office Box 1404, Houston, Tex. 77001.	El Paso Natural Gas C9. Gomez (Ellenburger) Field, Pecos County, Tex.	15.5	14.65
CI64–1147 E 11–8–68	Whitestone Petroleum Corp. (successor to Whitehall Oil Co., Inc.).	Northern Natural Gas Co., acreage in Ochiltree County, Tex.	17.0	14.65
CI65–199 C 11–25–68	Texaco, Inc., Post Office Box 52332, Houston, Tex. 77052.	El Paso Natural Gas Co., Basin Dakota Field, San Juan County, N. Mex.	[12]13.0	15.025
CI65–223 C 11–21–68	Joseph E. Seagram & Sons, Inc., d.b.a. Texas Pacific Oil Co., Post Office Box 747, Dallas, Tex. 75221.	do	13.0	15.025
CI65–1159 C 11–25–68	Tenneco Oil Co., et al., Post Office Box 2511, Houston, Tex. 77001.	El Paso Natural Gas Co., San Juan Basin, San Juan County, N. Mex.	13.0	15.025
CI65–1336 C 11–27–68	The Waverly Oil Works Co., 1627 Bryn Mawr Dr., Newark, Ohio 43055	Equitable Gas Co., Otter District, Braxton County, W. Va.	25.0	15.325
CI65–1354 E 11–21–68	Ray A. Jones (successor to Quaker States Oil Refining Corp.), Sand Fork, W. Va. 26430.	Equitable Gas Co., Glenville District, Gilmer County, W. Va.	25.0	15.325
CI66–939 C 11–27–68	D. R. Lauck Oil Co., Inc. (Operator) et al., 301 South Broadway, Wichita, Kans. 67202.	Northern Natural Gas Co., Wil Field, Edwards County, Kans.	16.0	14.65
CI66–1166 D 11–19–68	Sinclair Oil Corp. et al	Michigan Wisconsin Pipe Line Co., Woodward Area, Dewey and Woodward Counties, Okla.	[3]	.....
CI66–1310 C 11–18–68	Getty Oil Co. (Operator) et al	Northern Natural Gas Co., Anadarko Basin Area, Ellis County, Okla.	[5]17.0	14.65
CI67–662 C 11–8–68	Pennzoil United, Inc.,[1] 900 Southwest Tower, Houston, Tex. 77002.	Transwestern Pipeline Co., West Rojo Caballos Field, Reeves and Pecos Counties, Tex.	16.5	14.65
CI68–905 E 11–29–68 [11]	Brammer Engineering, Inc., agent (Operator) et al. (successor to John Franks (Operator) et al.).	Arkansas Louisiana Gas Co., Vixen Field, Caldwell and Ouachita Parishes, La.	18.33	15.025
CI68–909 (CI69–516) C 11–25–68 [13]	L. O. Ward, agent et al., 1420 Lahoma Rd., Enid, Okla. 73701.	Arkansas Louisiana Gas Co., Enid Area, Garfield County, Okla.	15.0	14.65
CI68–1097 C 11–18–68	Wyckoff Development Co., 1500 South Atherton St., State College, Pa. 16801.	The Sylvania Corp., Wyckoff Field, Steuben County, N.Y.	30.0	15.025
CI68–1240 C 11–22–68	Sinclair Oil Corp [1]	Northern Natural Gas Co., Northeast Oates Devonian Field, Pecos County, Tex.	16.5	14.65

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
F—Succession.
F—Partial succession.
See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
CI68-1439 E 11-27-68	Nielson Enterprises, Inc. (Operator) et al. (successor to John H. Hill (Operator) et al.), Post Office Box 370, Cody, Wyo. 82414.	Northern Natural Gas Co., Mocane Field, Beaver and Harper, Counties, Okla.	17.0	14.65
CI69-503 A 11-21-68	Getty Oil Co	United Gas Pipe Line Co., Mustang Island Block 904 Field, Offshore Nueces County, Tex.	17.0	14.65
CI69-504 A 11-21-68	Humble Oil & Refining Co., Post Office Box 2180, Houston, Tex. 77001.	Arkansas Louisiana Gas Co., Wilburton Field, Pittsburg County, Okla.	16.0	14.65
CI69-505 A 11-21-68	do	Natural Gas Pipeline Co. of America, East Laketon Field, Gray County, Tex.	[14] 19.15	14.65
CI69-506 B 11-22-68	Sun Oil Co. (Gulf Coast Division), 1608 Walnut St., Philadelphia, Pa. 19103.	Transcontinental Gas Pipe Line Corp., Pointe Au Fer Field, Terrebonne Parish, La.	Depleted	
CI69-507 A 11-20-68	M. F. McCain (Operator) et al., 730 Lane Bldg., Shreveport, La. 71101.	United Gas Pipe Line Co., Cheneyville Field, Rapides Parish, La.	18.5	15.025
CI69-508 (G-6710) F 11-12-68	G. E. Kadane & Sons (successor to L. B. Porter et al.), Post Office Drawer 1740, Wichita Falls, Tex. 76307.	United Gas Pipe Line Co., Maxie Pistol Ridge Field, Forrest County, Miss.	20.0	15.025
CI69-509 (CI66-1291) F 11-15-68	Cleary Funds Inc. (successor to J. M. Huber Corp.), 310 Kermac Bldg., Oklahoma City, Okla. 73102.	Panhandle Eastern Pipe Line Co., Southeast Gage Field, Ellis County, Okla.	[15] 18.0	14.65
CI69-510 B 11-20-68	Forest Oil Corp. (Operator) et al., 1300 National Bank of Commerce Bldg., San Antonio, Tex. 78205.	Transcontinental Gas Pipe Line Corp., Block 129, Vermilion Area, Offshore Louisiana.	Depleted	
CI69-511 B 11-20-68	Dorn & Miller Co., 1300 National Bank of Commerce Bldg., San Antonio, Tex. 78205.	do	Depleted	
CI69-512 A 11-20-68	W. J. Fellers (Operator) et al., 510 Amarillo Bldg., Amarillo, Tex. 79101.	Phillips Petroleum Co., West Panhandle Field, Hutchinson County, Tex.	14.0	14.65
CI69-513 (CI64-1405) 10-24-68 [16]	G. L. Vinson, City National Bank Bldg., Wichita Falls, Tex. 76301.	Arkansas Louisiana Gas Co., North Spiro Field, Le Flore County, Okla.	15.0	14.65
CI69-514 A 11-26-68	Continental Oil Co., Post Office Box 2197, Houston, Tex. 77001.	Kansas-Nebraska Natural Gas Co., Inc., Red Lion Field, Sedgwick County, Colo.	14.0	14.65
CI69-515 A 11-25-68	Marathon Oil Co., 539 South Main St., Findlay, Ohio 45840.	Colorado Interstate Gas Co., a division of Colorado Interstate Corp., South Wamsutter Area, Sweetwater County, Wyo.	[5] 15.0	14.65
CI69-517 A 11-26-68	Monsanto Co., 1300 Main St., Houston, Tex. 77002.	Transwestern Pipeline Co., Parsell (Lower Morrow) Field, Ochiltree County, Tex.	[5] 17.0	14.65
CI69-518 A 11-25-68	Dr. Paul Azar, 516 St. Landry St., Lafayette, La. 70501.	United Gas Pipe Line Co., Chauvin Field, Terrebonne Parish, La.	21.25	15.025
CI69-519 A 11-25-68	Diana Goff Cather and Laura Goff Davis, c/o Howard Caplan, Attorney in Fact, Post Office Box 707, Clarksburg, W. Va.	Consolidated Gas Supply Corp., Clark and Coal District, Harrison County, W. Va.	25.0	15.325
CI69-520 B 11-25-68	Sun Oil Co. (Gulf Coast Division)	Standard Oil Co. of Texas, a division of Chevron Oil Co. Gist Field, Jasper and Newton Counties, Tex.	Depleted	
CI69-521 A 11-25-68	Roger H. Ogden and George W. Schneider, Jr., Post Office Box 1301, OCS, Lafayette, La. 71101.	United Gas Pipe Line Co., Chauvin Field, Terrebonne Parish, La.	21.25	15.025
CI69-522 A 11-22-68	Union Producing Co., 900 Southwest Tower, Houston, Tex. 77002.	United Gas Pipe Line Co., Pettus (Vicksburg 2900) Field, Bee County, Tex.	17.0	14.65
CI69-523 A 11-22-68	William Cohen, 245 Patton, Wichita, Kans. 67208.	Clinton Oil Co., Cohen-Buffington Lease, Sumner County, Kans.	6.2	14.65
CI69-524 B 11-27-68	Roy G. Hildreth et al., Spencer, W. Va. 25276.	Consolidated Gas Supply Corp., Lee District, Calhoun County, W. Va.	Uneconomical	
CI69-525 B 11-27-68	do	do	Uneconomical	
CI69-526 A 11-29-68	Cayman Corp., Post Office Box 2099, Palos Verdes Peninsula, Calif. 90274.	Northern Natural Gas Co., Mocane-Laverne Field, Harper County, Okla.	[5] 17.0	14.65
CI69-527 A 11-12-68	H. C. Meadows, 510 Delaware St., Shreveport, La. 71106.	Southern Natural Gas Co., Bear Creek Field, Bienville Parish, La.	11.25	15.025
CI69-528 A 11-29-68	Aikman Bros. Corp. (Operator) et al., 706 Bank of the Southwest Bldg., Amarillo, Tex. 79109.	Northern Natural Gas Co., Mocane-Laverne Field, Ellis County, Okla.	[5] 17.0	14.65
CI69-529 A 11-29-68	Pan American Petroleum Corp., Post Office Box 591, Tulsa, Okla. 74102.	Texas Gas Transmission Corp., Welsh Field, Jefferson Davis Parish, La.	[17] 21.25	15.025
CI69-530 (CI61-973) F 11-21-68	Mobil Oil Corp. (successor to Perry R. Bass (Operator) et al.).	United Fuel Gas Co., West Gueydan Field, Vermilion Parish, La.	[18] 18.5	15.025
CI69-531 (G-12600) F 11-25-68	Estate of W. G. Rogers and BeeKay Co., a partnership, comprised of Barron Kidd and Ulmer Kidd (successor to Texaco, Inc.), c/o Emory T. Corbett, agent, 405 Oak Plaza Bldg., 3707 Rawlins St., Dallas, Tex. 75219.	Colorado Interstate Gas Co., Mocane-Laverne Area, Beaver County, Okla.	[19] 17.0	14.65
CI69-532 (G-12578) F 11-25-68	Estate of W. G. Rogers and BeeKay Co., a partnership, comprised of Barron Kidd and Ulmer Kidd (successor to Marathon Oil Co.).	do	[20] 17.0	14.65

See footnotes at end of table.

[1] Applicant has agreed to accept permanent authorization conditioned as Opinion No. 468, as modified by Opinion No. 468-A.
[2] Deletes the Middle Morrow Sand (4,414 to 4,434) because well is incapable of producing gas in commercial quantities against the pressures existing in Buyer's gathering facilities.
[3] Uneconomical to compress low pressure gas.
[4] Applicant states its willingness to accept permanent certificate conditioned to 15 cents per Mcf, subject to upward and downward B.t.u. adjustment.
[5] Subject to upward and downward B.t.u. adjustment.
[6] Includes 1 cent per Mcf paid to seller for gathering and dehydrating subject gas. Rate is effective subject to refund in Docket No. RI65-291.
[7] Adds interest of coowner, Broaddus Honeycutt. Subject acreage was acquired from Shell Oil Co., Docket No. G-10634.
[8] For gas which does not require compression or for gas compressed by buyer.
[9] For gas presently being compressed by buyer if seller elects to take over operation or maintenance of buyer's compressors.
[10] For gas requiring compression if producer elects to install, maintain and operate its own compressors.
[11] Amendment to certificate filed to reflect change of Operator.
[12] Plus settlement for liquids.
[13] Application erroneously assigned Docket No. CI69-516 for initial service. Docket No. CI69-516 is canceled and application will be treated as petition to amend the certificate in Docket No. CI68-909.
[14] Includes 0.65 cent upward B.t.u. adjustment. Subject to upward and downward B.t.u. adjustment.
[15] Rate effective subject to refund in Docket No. RI68-382.
[16] Applicant is filing for certificate to cover its own interest which has heretofore been covered by Operator's certificate in Docket No. CI64-1405.
[17] Contract rate is 21.25 cents per Mcf; however, Applicant states its willingness to accept certificate conditioned at 20 cents per Mcf for gas well gas and 18.5 cents per Mcf for casinghead gas, both subject to Quality Standard adjustments fixed in Opinion No. 546.
[18] Rate established by the Commission in Opinion No. 546.
[19] Rate in effect subject to refund in Docket No. RI67-44. Subject to upward and downward B.t.u. adjustment.
[20] Rate in effect subject to refund in Docket No. RI66-33. Subject to upward and downward B.t.u. adjustment.

[F.R. Doc. 68-15081; Filed, Dec. 19, 1968; 8:45 a.m.]

[Project 2628]

ALABAMA POWER CO.

Notice of Application for License for Unconstructed Project

DECEMBER 13, 1968.

Public notice is hereby given that application for license has been filed under the Federal Power Act (16 U.S.C. 791a-825r) by Alabama Power Co. (Correspondence to: Walter Bouldin, President, Alabama Power Co., 600 North 18th Street, Birmingham, Ala. 35203), for unconstructed Project No. 2628, known as the Crooked Creek Project, to be located on the Tallapoosa River in the Counties of Clay and Randolph, Ala., in the region of Roanoke, Wedowee, and Lineville.

A preliminary permit under the Federal Power Act was issued to Alabama Power Co. on July 7, 1967, for the proposed Crooked Creek Project for a period effective as of June 1, 1967, and terminating on November 6, 1968. The application for license for the project was filed on November 5, 1968.

The proposed Crooked Creek Project would consist of: (1) A concrete dam about 140 feet high and 956 feet long, including a gated spillway section and a nonoverflow section containing the headworks for the powerhouse; (2) an earth and rock fill dike section extending from each abutment of the concrete dam; (3) a 10,661-acre, 24-mile-long reservoir having a normal operating range between elevations 793 feet and 785 feet (USC&GS datum); (4) a powerhouse, integral with the dam, containing two generators each rated at 67,500 kw.; and (5) appurtenant facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 30, 1969, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and available for public inspection.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 68-15158; Filed, Dec. 19, 1968; 8:45 a.m.]

[Dockets Nos. CP69-166, CP69-167]

DEL NORTE NATURAL GAS CO.

Notice of Applications

DECEMBER 13, 1968.

Take notice that on December 9, 1968, Del Norte Natural Gas Co. (Applicant), 1026 Southwest National Bank Building, El Paso, Tex. 79901, filed in Dockets Nos. CP69-166 and CP69-167 applications for a Presidential Permit and for authorization pursuant to section 3 of the Natural Gas Act for the exportation of natural gas to the Republic of Mexico, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

In Docket No. CP69-167 Applicant seeks authorization to export natural gas which will be sold to Gas Natural De Juarez, S.A. (Gas Natural), an existing customer, for resale to Ladrillera Juarez, S.A., a brick plant located in the City of Juarez, Chihuahua, Mexico. Applicant states that the estimated peak day and annual requirements for this particular sale are 900 Mcf and 65,800 Mcf, respectively.

The application states that the volumes of gas proposed to be exported by Applicant will be purchased from El Paso Natural Gas Co., under El Paso's effective tariffs on file with the Commission pursuant to a letter agreement dated October 22, 1968, between Applicant and El Paso. Applicant's export price to Gas Natural will be as specified in the existing contract, as amended between the latter two parties.

Pursuant to Executive Order No. 10485, dated September 3, 1953, Applicant filed in Docket No. CP69-166 an application for a Presidential Permit authorizing the operation and maintenance of an additional delivery point to Gas Natural for the export of natural gas at the international boundary of the United States and the Republic of Mexico. The additional facilities are described as follows:

A 2-inch natural gas line in Dona Ana County, New Mexico, commencing at a point of connection with El Paso's 4½-inch O.D. El Paso Brick Co. pipeline and extending therefrom in a southeasterly direction 125 feet, thence in a southerly direction parallel with and approximately 200 feet west of the boundary line between the States of Texas and New Mexico, 1,150 feet to a point on the international boundary line between the United States and Mexico, together with metering facilities.

Applicant states that the aforementioned facilities will be constructed and owned by Western Gas Interstate Co., but that Applicant will lease, maintain, and operate them.

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 January 10, 1969.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 68-15159; Filed, Dec. 19, 1968; 8:45 a.m.]

[Docket No. RI66-59]

MARATHON OIL CO.

Order Accepting Contract Amendments, and Accepting Related Decreased Rate Filings Subject to Refund In Existing Rate Suspension Proceeding

DECEMBER 13, 1968.

On November 15, 1968, Marathon Oil Co. (Marathon) filed two rate decreases from presently effective 19 cents per Mcf rates now being collected subject to refund in Docket No. RI66-59, to redetermined rates of 18.90833 cents per Mcf[1] for gas sold from acreage in Austin and Colorado Counties, Texas (Railroad District No. 3) to Tennessee Gas Pipeline Co., a Division of Tenneco Inc. Concurrently with the filing of its rate decreases, Marathon submitted two letter agreements dated September 20, 1968[2] which provide for the redetermined rates proposed herein applicable for the 5-year period beginning January 1, 1969. The aforementioned rate filings are set forth in Appendix "A" hereof.

The proceeding in Docket No. RI66-59 involves two rate increases, among others, from 14.6 cents to 19 cents per Mcf, filed by Marathon on August 6, 1965. The proposed rates were suspended by the Commission's order issued September 3, 1965, in Docket No. RI66-59, and were subsequently made effective subject to refund.

Marathon's proposed 18.90833 cents per Mcf rate decreases exceed the area increased rate ceiling of 14.6 cents per Mcf for Texas Railroad District No. 3, and still exceed the last firm rates under the rate schedules involved. Since the proposed rate decreases are provided for by contract agreements, we conclude that it would be in the public interest to accept for filing Marathon's proposed rate decreases to become effective on January 1, 1969, the proposed effective date, subject to refund in the existing rate proceeding in Docket No. RI66-59, and accept for filing the proposed related letter agreements dated September 20, 1968, effective as of December 16, 1968, the expiration date of the statutory notice.

* * * * *

The Commission finds:

Good cause exists for accepting for filing Marathon's proposed rate decreases, designated as Supplement Nos. 10 and 15 to Marathon's FPC Gas Rate Schedule Nos. 8 and 11, respectively, to become effective on January 1, 1969, the proposed effective date, subject to refund in the existing rate suspension proceeding in Docket No. RI66-59; and to accept for filing the letter agreements dated September 20, 1968, designated as Supplement Nos. 9 and 14 to Marathon's FPC Gas Rate Schedule Nos. 8 and 11, respectively, to become effective on December 16, 1968, the expiration date of the statutory notice.

The Commission orders:

(A) The proposed decreased rates of 18.90833 cents per Mcf contained in Supplement Nos. 10 and 15 to Marathon's FPC Gas Rate Schedule Nos. 8 and 11, respectively, are accepted for filing and permitted to become effective on January 1, 1969, subject to refund in the existing rate suspension proceeding in Docket No. RI66-59 and refund obligation related thereto.

(B) Marathon's contract agreements dated September 20, 1968, designated as Supplement Nos. 9 and 14 to Marathon's FPC Gas Rate Schedule Nos. 8 and 11, respectively, are accepted for filing and permitted to become effective on December 16, 1968, the expiration date of the statutory notice.

By the Commission.

[SEAL] GORDON M. GRANT,
Secretary.

[1] Designated as Supplement Nos. 10 and 15 to Marathon's FPC Gas Rate Schedule Nos. 8 and 11, respectively.

[2] Designated as Supplement Nos. 9 and 14 to Marathon's FPC Gas Rate Schedule Nos. 8 and 11, respectively.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual decrease	Date filing tendered	Effective date unless suspended		Cents per Mcf: Rate in effect	Cents per Mcf: Proposed decreased rate	Rate in effect subject to refund in dockets Nos.
RI66-59	Marathon Oil Co., 539 South Main St., Findlay, Ohio 45840, Attention: Mr. R. N. Ayars.	8	[1] 9	Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Nelsonville Field, Austin County, Tex.) (RR. District No. 3).	----------	11-15-68	[2] 12-16-68	(Accepted)			
		8	10		$252	11-15-68	[3] 1-1-69	(Accepted—subject to refund.)	[6] [7] 19.0	[4] [5] [6] [7] 18.90833	RI66-59.
	do	11	[1] 14	Tennessee Gas Pipeline Co., a division of Tenneco Inc. (North Garwood Field, Colorado County, Tex.) (RR. District No. 3).	----------	11-15-68	[2] 12-16-68	(Accepted)			
		11	15		228	11-15-68	[3] 1-1-69	(Accepted—subject to refund.)	[6] 19.0	[4] [5] [6] 18.90833	RI66-59.

[1] Letter Agreement dated Sept. 20, 1968, provides for the redetermined rates proposed herein applicable for the 5-year period beginning Jan. 1, 1969.
[2] The stated effective date is the first day after expiration of the statutory notice.
[3] The requested effective date is the effective date requested by Respondent.
[4] Redetermined rate decrease.
[5] Pressure base is 14.65 p.s.i.a.
[6] Subject to a downward B.t.u. adjustment.
[7] Subject to 0.021931 cent dehydration charge deduction by buyer.

[F.R. Doc. 68-15160; Filed, Dec. 19, 1968; 8:46 a.m.]

[Docket No. CP69-164]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Application

DECEMBER 13, 1968.

Take notice that on December 9, 1968, Natural Gas Pipeline Co., of America (Applicant), 122 South Michigan Avenue, Chicago, Ill. 60603, filed in Docket No. CP69-164 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities, the sale and delivery of additional volumes of natural gas, and the storage of additional volumes of gas for existing customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant proposes to expand its transmission system by installation of new compressor stations as follows:

No. 191, Hutchinson County, Tex.	One 9,100 horsepower unit.
No. 192, Meade County, Kans.	One 12,000 horsepower unit.
No. 154, Gray County, Tex.	Two 1,040 horsepower units.
No. 343, Liberty County Tex.	Three 1,040 horsepower units.

Applicant proposes to install additional compressor horsepower at existing stations as follows:

Station	Horsepower to be added
No. 104, Barton County, Kans	12,500
No. 105, Cloud County, Kans	9,100
No. 106, Gage County, Nebr	6,350
No. 107, Mills County, Iowa	5,500
No. 108, Warren County, Iowa	5,500
No. 109, Keokuk County, Iowa	6,350
No. 110, Henry County, Ill	5,500
No. 111, Hutchinson County, Tex	2,080
No. 113, Will County, Ill	2,080
No. 193, Edwards County, Kans	12,000
No. 194, Ellsworth County, Kans	12,000
No. 195, Washington County, Kans	12,000
No. 196, Otoe County, Nebr	12,000
No. 197, Adams County, Iowa	12,000
No. 198, Marion County, Iowa	12,000

Applicant proposes to install the following pipeline facilities:

(1) Approximately 4.85 miles of 42-inch pipeline replacing an equivalent length of existing 24-inch pipeline in DuPage and Cook Counties, Ill.

(2) Approximately 139.55 miles of 36-inch pipeline looping at various locations in Bureau, Will, DuPage, Jackson, Perry, Shelby, Livingston, and Cook Counties, Ill.; Butler County, Mo.; Clark, Grant, Saline, Jackson, Lawrence, and Nevada Counties, Ark.; and Montgomery, Liberty, Panola, Marion, and Cass Counties, Tex.

(3) Approximately 94.04 miles of 30-inch pipeline looping in Lea and Roosevelt Counties, N. Mex., and Bailey, Potter, and Moore Counties, Tex.

(4) Approximately 3.69 miles of 20-inch pipeline looping in Rock Island County, Ill.

(5) Miscellaneous facilities appurtenant to the above and existing facilities.

Applicant proposes to construct storage facilities consisting of 12 injection-withdrawal wells, three observation wells, approximately 5.02 miles of 6-inch, 8-inch, and 12-inch gathering line, and 6,000 horsepower of compression. Applicant also proposes the installation of purification facilities and the construction and installation of miscellaneous appurtenant facilities. The proposed storage facilities will be installed at Applicant's Cairo storage field, Columbus City storage field, both in Louisa County, Iowa, Keota storage field, Washington County, Iowa, Loudon storage field, Fayette and Effingham Counties, Ill., and Herscher northwest storage field, Kankakee County, Illinois.

Applicant also seeks authorization to sell and deliver additional daily contract quantities, or maximum daily quantities, of natural gas and to render additional storage service to existing customers commencing December 1, 1969 as follows:

	Additional daily contract quantities (or maximum daily quantities) in Mcf at 1,000 B.t.u. per cubic foot and 14.65 p.s.i.a. at 60° F.
Rate Schedule CD-1:	
Associated Natural Gas Co	20
Commonwealth Edison Co	10,000
Illinois Power Co	10,000
Interstate Power Co	1,300
Iowa Electric & Power Co	5,000
Iowa Illinois Gas & Electric Co	4,832
Iowa Power & Light Co	538
Iowa Southern Utilities Co	321
North Shore Gas Co	11,000
Northern Illinois Gas Co	100,138
Northern Indiana Public Service Co	30,000
The Peoples Gas Light & Coke Co	95,000
City of Sullivan, Ill	119
Wisconsin Southern Gas Co	1,888
Total CD-1	270,156
Rate Schedule G-1:	
Central Illinois Public Service Co	500
City of Corning, Iowa	118
City of Frohna, Mo	45
Kaskaskia Gas Co	370
Missouri Utilities Co	180
City of Nashville, Ill	310
City of Perryville, Mo	345
City of Pinckneyville, Ill	310
City of Salem, Ill	500
United Cities Gas Co	208
Town of Wellman, Iowa	25
Total G-1	2,911
Total CD-1 and G-1	273,067
Rate Schedule S-1:	
Associated Natural Gas Co	157
Commonwealth Edison Co	4,086
Illinois Power Co	3,525
Iowa Electric Light & Power Co	1,795
Iowa Illinois Gas & Electric Co	9,875
Iowa Power & Light Co	732
Iowa Southern Utilities Co	376
North Shore Gas Co	4,274
Northern Illinois Gas Co	34,411
Northern Indiana Public Service Co	14,433
The Peoples Gas Light & Coke Co	29,055
City of Sullivan, Ill	107
Wisconsin Southern Gas Co	994
City of Nebraska, Nebr	180
Total S-1	104,000

Applicant states that the proposed facilities and additional service are necessary to meet customer demand during the 1969–70 winter season.

Total estimated cost of the proposed facilities is $83,865,000. Applicant states that it plans to finance initially through short-term borrowings from banks and the issuance of commercial paper. Applicant states that permanent financing will be provided by sale and issuance of first mortgage bonds, debentures, preferred stock or some combination thereof.

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) and the regulations under the Natural Gas Act (§ 157.10) on or before January 10, 1969.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 68–15161; Filed, Dec. 19, 1968; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 262A]

MOTOR CARRIER TRANSFER PROCEEDINGS

DECEMBER 13, 1968.

Application filed for temporary authority under section 210(a)(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC–CF–70970. By application filed November 27, 1968, SOUTHERN ALASKA FAST FREIGHT, INC., Post Office Box 729, Ketchikan, Alaska 99901, seeks temporary authority to lease the operating rights of MARINE OVERLAND REFRIGERATED EXPRESS, INC., Post Office Box 569, Ketchikan, Alaska 99901, under section 210a(b). The transfer to SOUTHERN ALASKA FAST FREIGHT, of the operating rights of MARINE OVERLAND REFRIGERATED EXPRESS, INC., is presently pending.

Nos. MC–FC–70994 and MC–FC–70995. By application filed December 9, 1968, GEMINI TRANSPORTATION CO., 2717 North Main Street, Walnut Creek, Calif. 94596, seeks temporary authority to lease the operating rights of ELWOOD H. HORTON and HAROLD H. NEWSOM, doing business as CONTRA COSTA DELIVERY SERVICE, Post Office Box 851, Walnut Creek, Calif. 94597, and LOUIS J. VALLAS and ALBERT L. SERAFINO, JR., doing business as GEMINI TRANSPORTATION CO., Post Office Box 145, Walnut Creek, Calif. 94597, under section 210a(b). The transfer to GEMINI TRANSPORTATION CO., of the operating rights of ELWOOD H. HORTON and HAROLD H. NEWSOM, doing business as CONTRA COSTA DELIVERY SERVICE, and LOUIS J. VALLAS and ALBERT L. SERAFINO, JR., doing business as GEMINI TRANSPORTATION CO., is presently pending.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 68–15157; Filed, Dec. 19, 1968; 8:45 a.m.]

[Notice 263]

MOTOR CARRIER TRANSFER PROCEEDINGS

DECEMBER 16, 1968.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC–35424. By order of December 11, 1968, the Transfer Board approved the lease of Jobel Transport, Inc., 2118 Pailet Street, Post Office Box 359, Harvey, La., of the certificate of registration in No. MC–98807 (Sub-No. 2), issued October 18, 1963, to Bourg Truck Line, Inc., Post Office Box 277, Lockport, La., evidencing a right to engage in transportation in interstate or foreign commerce solely within the State of Louisiana corresponding in scope to the service authorized by common carrier certificates Nos. 5010–F and 5010–G dated February 24, 1961, issued by the Louisiana Public Service Commission.

No. MC–FC–70825. By order of November 27, 1968, the Transfer Board approved the transfer to Alberto C. Garcia, Eagle Pass, Tex.; of certificate in No. MC–96555, issued February 25, 1948, to Valente G. Garcia, Eagle Pass, Tex.; authorizing the transportation of: General commodities, between the boundary of the United States and Mexico at Eagle Pass, Tex.; and points in Eagle Pass, Tex. Jeremiah Ingels Rhodes, Post Office Box R, Eagle Pass, Tex. 78852, attorney for applicants.

No. MC–FC–70935. By order of November 29, 1968, the Transfer Board approved the transfer to Thomas L. Powell, East Elmhurst, N.Y., of certificate No. MC–13833, issued August 29, 1940, to G. Santini & Co., Inc., Bronx, N.Y., authorizing the transportation of household goods between New York, N.Y., on the one hand, and, on the other, points in Connecticut, New Jersey, and New York. William D. Traub, 10 East 40th Street, New York, N.Y. 10016. Representative of applicants.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 68–15202; Filed, Dec. 19, 1968; 8:49 a.m.]

FOURTH SECTION APPLICATION FOR RELIEF

DECEMBER 16, 1968.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 41516—*Chlorine to St. Marys, Ga.* Filed by Traffic Executive Association—Eastern Railroads, agent (E. R. No. 2929), for interested rail carriers. Rates on chlorine in tank-car loads, as described in the application, from points in Delaware, New Jersey, New York, Ohio, and West Virginia, to St. Marys, Ga.

Grounds for relief—Market competition.

Tariffs—Supplements 60 and 228 to Traffic Executive Association—Eastern Railroads, agent tariffs ICC C–611 and C–334, respectively.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 68–15201; Filed, Dec. 19, 1968; 8:48 a.m.]

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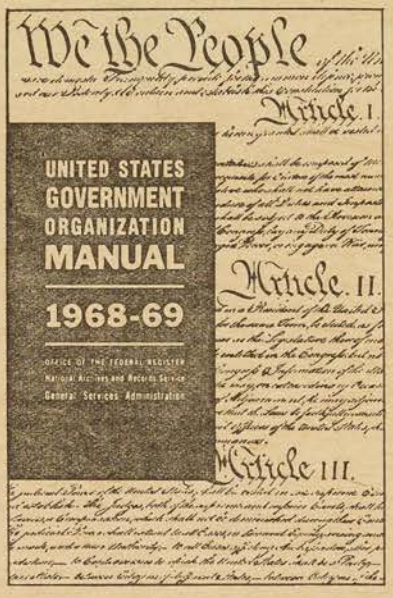

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